DOCUMENT RESUME

ED 287 687 SE 048 641

TITLE	Asbestos in Schools. Hearing before the Subcommittee on Transportation, Tourism, and Hazardous Materials of the Committee on Energy and Commerce. House of Representatives, One Hundredth Congress, First Session on H.J. Res. 153.
INSTITUTION	Congress of the U.S., Washington, DC. House Committee on Energy and Commerce.
PUB DATE	19 Feb 87
NOTE	82p.; Serial No. 100-2.
AVAILABLE FROM	Superintendent of Documents, Congressional Sales Office, U.S. Government Printing Office, Washington, DC 20402.
PUB TYPE	Legal/Legislative/Regulatory Materials (090)
EDRS PRICE	MF01/PC04 Plus Postage.
DESCRIPTORS	Air Pollution; *Asbestos; Elementary Secondary Education; *Environmental Standards; *Federal Aid; *Federal Legislation; Federal Programs; Government Role; *Government School Relationship; Hazardous Materials; Hearings; Public Health; *School Safety
IDENTIFIERS	Congress 100th

ABSTRACT

This document provides the text of House Joint Resolution 153 and the remarks made in the hearing held before a subcommittee of the United States House of Representatives. This joint resolution was written to provide for insurance grants and loans by the Environmental Protection Agency (EPA) under the Asbestos School Hazard Abatement Act (ASHAA) of 1985, to ensure that eligible local educational agencies could complete asbestos abatement work in school buildings during the 1987 summer school recess. The document includes the testimony offered at the hearing by representatives of: (1) the National Education Association; (2) local school districts; (3) the Ohio Department of Education; (4) the Ohio State Parent Teacher Association; (5) the Environmental Protection Agency (EPA); and (6) the Council for American Private Education. Materials that were submitted for the record (and are provided in this document) include a letter from the Asbestos in the Schools Coalition to the Office of Management and the Budget (OMB), and a memorandum from EPA's ASHAA Loan and Grant Program. (TW)

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ASBESTOS IN SCHOOLS

ED287687

HEARING

BEFORE THE

SUBCOMMITTEE ON TRANSPORTATION, TOURISM, AND HAZARDOUS MATERIALS

OF THE

COMMITTEE ON ENERGY AND COMMERCE HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

H.J. RES. 153

A JOINT RESOLUTION TO PROVIDE FOR TIMELY INSURANCE GRANTS AND LOANS BY THE ENVIRONMENTAL PROTECTION AGENCY UNDER THE ASBESTOS SCHOOL HAZARD ABATEMENT ACT OF 1985 TO ENSURE THAT ELIGIBLE LOCAL EDUCATIONAL AGENCIES CAN COMPLETE ASBESTOS ABATEMENT WORK IN SCHOOL BUILDINGS DURING THE 1987 SUMMER SCHOOL RECESS

FEBRUARY 19, 1987

Serial No. 100–2

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ASBESTOS IN SCHOOLS

THURSDAY, FEBRUARY 19, 1987

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON TRANSPORTATION, TOURISM,
AND HAZARDOUS MATERIALS,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:06 a.m. in room 2322, Rayburn House Office Building, Hon. Thomas A. Luken (chairman) presiding.

Mr. LUKEN. This hearing of the Subcommittee on Transportation, Tourism and Hazardous Materials will now be called to order. The hearing is on the hazards of delaying implementation of EPA's Asbestos in Schools Program. I'd like to welcome Mr. Moore of the EPA and all of you who have joined us today to examine these problems that plague the Environmental Protection Agency's Asbestos in Schools Program. I would like to acknowledge the fine work of Congressman Florio and thank him for bringing this matter to our attention at this particular time, and for his help and the help of the Minority in putting this hearing together.

For some reason, the administration believes that Federal financial aid to help schools clean up asbestos should be eliminated. The administration has proposed no funds for fiscal year 1988, and has requested rescission of $47.5 million of the $50 million appropriated for fiscal year 1987. The administration's proposal is outrageous, and that is a moderate statement under the circumstances. Evidently, the administration believes that spending millions to pay U.S. farmers not to grow crops, for example, is okay but protecting children from asbestos is out of the question.

According to budget documents, the EPA believes that previous Federal funding has already greatly reduced the asbestos problem. I will be very interested in pursuing that statement and seeing what basis there is for saying that the asbestos problem has been greatly reduced. Fifteen million school kids and 1.5 million school workers are exposed to asbestos every day. Thousands of schools have applied for Federal funds in the past few years. In 1986, over 1,700 schools applied for loans or grants. The largest number of school district applicants came from my State, Ohio. Only 295 school districts nationwide received some help, and the estimated cost of cleanup action for those schools is almost $200 million.

In addition, the EPA acknowledges that since passage of legislation in 1986 requiring schools to address the asbestos problem, even more schools will need help.

Asbestos is a known carcinogen. When inhaled, its fibers can cause crippling disease and death. Asbestos is particularly hazardous to children, and I think the EPA will testify to that effect. Children breathe at a faster rate than adults. We face a national tragedy from the exposure of children to asbestos.

But despite the overwhelming evidence of the great need on the part of schools and the peril to schoolchildren, the administration pretends the problem doesn't exist. Last year, Congress passed the Asbestos Hazard Emergency Response Act because we were convinced that States and local governments could not adequately address the problem. Less than a year after the President signed that legislation, the administration claims it is time to turn this problem over to State and local government. We will pursue that matter today.

Yesterday I joined with Congressman Florio to announce the introduction of a joint House/Senate resolution to require the EPA to make funds available for schools in time for cleanup this summer. The problem the resolution addresses stems from the request for the rescission and what has flowed from that request, and the slowing of the EPA effort which was already at a snail's pace, and therefore, what amounts to sabotage of the program through the administrative impediments that have been thrown up.

This resolution I'm sure Congressman Florio will discuss further, but the intent of that resolution and intent of this hearing is to bring about compliance with the congressional will in a bill that was signed by the President to give a boost to the efforts of the states and to the local school districts to remove this peril to the health of our nation's children.

[The prepared statement of Mr. Luken follows:]

STATEMENT OF HON. THOMAS A. LUKEN

I would like to welcome Mr. Moore and all of you who have joined us today to examine the problems that plague the Environmental Protection Agency's Asbestos in Schools program. I would like to thank Congressman Florio for bringing this issue before the Subcommittee and for his staff's help in putting this hearing together.

For some reason, the Administration believes that federal financial aid to help schools clean up asbestos should be eliminated. The Administration has proposed no funds for fiscal year 1988 and has requested rescission of $47.5 million of the $50 million appropriated for FY 1987. The Administration's proposal is outrageous. Evidently, the Administration believes that spending millions to pay U.S. farmers not to grow cops is more imortant than protecting children from asbestos.

According to Budget documents, the EPA believes that "previous federal funding has already greatly reduced the [asbestos] problem." 15 million school kids and 1.5 million school workers exposed to asbestos everyday disagree. So do I. Thousands of schools have applied for federal funds over the past few years. In 1986, over 1,700 schools applied for loans or grants. The largest number of school district applicants, 82, came from my state, Ohio. Only 295 school districts nationwide received some help and the estimated cost of clean-up actions for those schools alone is almost $200 million. In addition, the EPA acknowledges that since passage of legislation in 1986 requiring schools to address the asbestos problem, even more schools will need help. There is no justification for eliminating federal funds to help schools protect children from asbestos.

Asbestos is a known carcinogen. When inhaled, its fibers can cause crippling disease and death resulting in enormous hardship for victims and their families. Asbestos is particularly hazardous to children who breathe at a rate 5 times greater than adults. We face a national tragedy from the constant exposure of our children to this dangerous material.

Despite the overwhelming evidence of great need on the part of schools and of the peril to school children, the Administration pretends the problem does not exist. Last year, Congress passed the Asbestos Hazard Emergency Response Act because we were convinced that states and local governments could not adequately address the problem. Less than a year after the President signed that legislation into law, the Administration claims that it is time to turn this problem over to state and local government. I am eager to hear the EPA's explanation for this sudden turnaround.

Yesterday, I joined with Congressman Florio to announce the introduction of a joint House/Senate resolution to require the EPA to make funds available for schools to use for asbestos clean-up this summer. The problem the resolution addresses stems from the request for the rescission of the 1987 appropriation. It is my understanding that EPA has put the Asbestos in Schools program on hold pending Congressional review of this request.

It is my view that an unsupportable request to rescind funds does not authorize the EPA to stop a program Congress enacted in 1984 and for which it provided $50 million in funds for use in 1987.

The resolution would require EPA to make funds available for use in schools this summer. In the past two years, EPA has not made awards under the Asbestos in Schools program until June in 1985 and July in 1986. That is simply much too late for the schools to apply these funds to remedial work planned for the summer. The result is that needy schools are forced to expose school children to asbestos for an additional year. Clean-up can only take place during the summer when school buildings are unoccupied.

Obviously aware that its actions will prevent schools who apply for funds this year from receiving awards in time for use this summer, EPA has proposed that instead of providing 1987 funds to needy schools who apply this year, it will award $30–$35 million to last year's applicants who did not receive funds. I question whether EPA's decision will result in awards being made to the schools with the greatest need. Also, I would like to know if EPA has done all the work necessary in time to determine if these 1986 applicants still need funds.

Under EPA's plan $10 to $15 million in funds already appropriated for this year will be awarded to 1987 applicants but not until June. This is unacceptable to me and to the parents of the children exposed to these risks.

I look forward to hearing EPA's explanation and the views of the school representatives and service employee's union.

Mr. LUKEN. We will proceed with the hearing, therefore, after opening statements to examine those questions. I now call on the ranking minority member, Mr. Whittaker, for any opening statement that you may have.

Mr. WHITTAKER. Thank you very much, Mr. Chairman. And believe me, it is a pleasure to be here today on the first official business day of the new Subcommittee on Transportation, Tourism, and Hazardous Materials. I welcome our new Chairman, Mr. Luken, and I look forward to a fruitful and cooperative relationship with him over the next 2 years.

And I might add that as Chairman of our subcommittee, it is going to be our Chairman's job, Mr. Luken's job, to engineer a wide range of legislative initiatives on rail and environmental issues through this 100th Congress. So it seems only fitting to present him with an engineer's cap as a token of my esteem and best wishes for a productive 2 years at the throttle of our subcommittee.

Mr. LUKEN. It is not going to be indicative of anything that I have to expand the cap right off.

I will take it off immediately so that I won't be intimidating anyone out there.

Mr. WHITTAKER. In the spirit of fair play I will put one on as well.

Mr. LUKEN. Just for the photo.

Mr. WHITTAKER. To continue, Mr. Chairman, it is noteworthy that this subcommittee's first hearing will focus on the serious environmental issue of asbestos in schools. You'll find that the members of this subcommittee are both very familiar and very concerned with this potential health hazard.

Last year, the Energy and Commerce Committee passed legislation that established minimum health standards for the protection of children from asbestos exposure in our schools. This legislation received strong support from both sides of the aisle. I'm happy to say that the Asbestos Hazard Emergency Response Act of 1986 was enacted into law in October 1986.

The subject of today's hearing is a much more focused issue concerning EPA's schedule for the distribution of cleanup funds under the Asbestos School Hazard Abatement Act. Unfortunately to this member, it appears that the asbestos-in-schools program has become a pawn in the budget war between the administration and the Congress.

Last year, the 99th Congress appropriated $50 million in funds for EPA to distribute to schools under the Asbestos School Hazard Abatement Act. This year, however, the administration has proposed to rescind these funds. Unfortunately, the only real outcome of this budget war will be EPA's delay in distributing badly needed funds to schools conducting cleanup work. It is clear that Congress will not act to affirm this proposed rescission, and thus, we have what could be considered the worst possible outcome; the appropriated funds simply will not be used as quickly and profitably as possible.

I look forward to hearing from EPA witnesses concerning their schedule for distributing the fiscal year 1986 and fiscal year 1987 funds. It is clear to me that EPA has been largely successful in the past in establishing a funding program and awarding funds. I hope that the agency will continue this past performance by distributing the newly-appropriated funds by summer when the bulk of the cleanup work should be done.

Thank you, Mr. Chairman.

Mr. LUKEN. Thank you, Mr. Whittaker. And the gentlemen from New Jersey, Mr. Florio, who is the author of the resolution.

Mr. FLORIO. Thank you very much, Mr. Chairman. Though I have no hat to offer you, I would likewise offer to you my best wishes and pledge my full cooperation this year as this subcommittee goes forward to try to deal with a whole host of very important subjects. I know that you'll provide the leadership that we need to try to build those bipartisan coalitions that are important to effectuate the goals that I think we all share.

This is a very important hearing and I commend you for convening the subcommittee and starting our work this year with this hearing, which is an outgrowth of the consensus that evolved last year on this very significant topic. I likewise look forward to hearing from Dr. Moore, whom I have great respect for and who has been a very good witness before this committee. I note that he was recognized not too long ago as one of the better administrators in the administration with an award, which I think is appropriate. In many instances, Dr. Moore, I think, has been caught in the intra-Administration difficulties between agencies other than his own.

I've always believed that his sensitivity is good, and I'm hopeful that we can develop a good relationship with him and his office as we try to resolve this particular problem.

Congress has appropriated $50 million in each of the last 3 years. The administration has never been supportive of the authorizations but they have always seen fit to expend the money. Unfortunately this year, they go a bit beyond their previous unhappiness with this authorization process and attempt to take back the money in the form of a rescission.

I'm perplexed by the rationale for that rescission in saying that the money is not needed. That simply taxes credibility. I can represent to this body that my own state has suggested that $76 million is required for cleanup in New Jersey alone, much less the entire United States.

I'm going to be interested in pursuing with Dr. Moore the progress that has been made and is being made, hopefully, in implementing the regulations called for under the legislation that was passed last year. A relatively new process of negotiated regulation is being undertaken. I will be happy and I think the committee will be interested—to hear what progress is being made.

As was stated by Chairman Luken, I have introduced a resolution with the bipartisan support of members of this committee, including the support of Mr. Lent and Mr. Dingell and with the support of members of the other body, bipartisan support, to attempt to overcome the problem that seems to be evolving from the attempt to rescind the money; that is, the scheduling of the availability of the money that I'm convinced this Congress will not allow to be rescinded. I think as a matter of common sense, if you're going to do work in schools, the work has to be done, for the most part, in the summer when the children are not there.

We want to ensure—and the purpose of the resolution is to ensure—that the money that Congress has said should be available, is made available in a timely fashion so that work can be done this year when the money was appropriated for that work to be done.

So, Mr. Chairman, I thank you very much for the opportunity that we're all going to be provided to get some updated information on the progress of cleaning up asbestos in the schools, I look forward to the hearing.

Mr. LUKEN. Thank you, Mr. Florio, and thank you and your staff for the excellent cooperation in providing us with information and background on this hearing and the other matters that the subcommittee has pursued in the past and that we will be working on.

[The text of House Joint Resolution 153 follows:]

100TH CONGRESS
1ST SESSION

H. J. RES. 153

To provide for timely issuance of grants and loans by the Environmental Protection Agency under the Asbestos School Hazard Abatement Act of 1985 to ensure that eligible local educational agencies can complete asbestos abatement work in school buildings during the 1987 summer school recess.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 19, 1987

Mr. FLORIO (for himself, Mr. THOMAS A. LUKEN, Mr. LENT, Mr. DINGELL, Mr. RITTER, and Mr. VENTO) introduced the following joint resolution; which was referred to the Committee on Energy and Commerce

---

JOINT RESOLUTION

To provide for timely issuance of grants and loans by the Environmental Protection Agency under the Asbestos School Hazard Abatement Act of 1985 to ensure that eligible local educational agencies can complete asbestos abatement work in school buildings during the 1987 summer school recess.

Whereas the health of 15 million of the Nation's children is threatened because they attend school in buildings with dangerous asbestos contamination;

Whereas in 1984 the Congress passed and the President signed into law the Asbestos School Hazard Abatement Act (ASHAA) to provide funds to the Nation's neediest local

educational agencies to help them abate potentially deadly asbestos in order to protect school children;

Whereas the Congress provided $50,000,000 in grants and loans under such Act for fiscal year 1987;

Whereas the Environmental Protection Agency asserted in its budget that ASHAA funds are unnecessary because prior year funds have greatly reduced the problem and many States have their own program, and the EPA is delaying the fiscal year 1987 ASHAA financial assistance application process;

Whereas there is a dire need for these funds and the Environmental Protection Agency's current schedule to issue grants and loans in June of 1987 will seriously impair the ability of local educational agencies in need of Federal funds to complete asbestos abatement work during the 1987 summer school recess: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Environmental Protection Agency and any other agencies involved shall take such steps as may be necessary to ensure that eligible local educational agencies are awarded financial assistance under the Asbestos School Hazard Abatement Act of 1984 in time to complete asbestos abatement work not later than the end of the 1987 summer school recess.

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Mr. LUKEN. Now I'll introduce the gentleman from Alabama who is one of the newer members of the full committee and the subcommittee, and we will not attempt to place any hat upon him, either symbolically or figuratively or actually. The gentleman from Alabama.

Mr. CALLAHAN. Thank you, Mr. Chairman. I not only do not have a hat to present to you, I don't even have a prepared statement for the record.

Mr. LUKEN. Well, we wouldn't want you to spontaneously give any Alabama off-the-cuff remarks; they might last too long.

Mr. CALLAHAN. I just want to express my happiness at being a member of your great subcommittee and look forward to working with you and the other members of the Energy and Commerce Committee as a whole. So that would be my statement at this point.

Mr. LUKEN. We thank the gentleman. Now we'll proceed with the witnesses and we'll start off with Dr. John Moore.

Dr. Moore, you may take the witness chair, and if you have anyone with you you wish to accompany you that would be perfectly okay with the committee.

STATEMENT OF JOHN A. MOORE, ASSISTANT ADMINISTRATOR FOR PESTICIDES AND TOXIC SUBSTANCES, ENVIRONMENTAL PROTECTION AGENCY

Mr. MOORE. Thank you, Mr. Chairman. I do have some people with me this morning. Behind me is Susan Vogt and to her left, Mr. Michael Stahl. Ms. Vogt is the former director of the Asbestos Action Program and Mr. Stahl is currently the acting director of that program.

I'd like to briefly summarize my statement, Mr. Chairman.

Mr. LUKEN. We don't need to worry about the bells; that's the caucus, not the full House. Proceed, Dr. Moore.

Mr. MOORE. I think the goals of the agency and this committee regarding asbestos in schools are essentially identical. It is to minimize the inhalation of asbestos which is in place in school buildings. Our program is designed so that regulatory efforts, State assistance grants and technical assistance activity complement each other and are coordinated to reduce such asbestos exposure.

The agency has developed and continues a program which provides technical assistance to help schools identify and evaluate asbestos hazards and to make appropriate abatement decisions. However, we continue to believe that direct Federal funding of abatement projects in schools does not represent the most effective use of Federal resources.

State and local agencies can best set priorities and fund asbestos abatement action. We think the Federal role in school asbestos abatement should be to provide guidance and technical assistance to these State and local governments. The problem is already being addressed at the State and local level; 32 States have enacted more than 60 asbestos-related laws, nearly half of the 32 States with asbestos laws have provisions addressing financing programs for abatement. Six States have their own funding programs in place.

Philosophic differences as to source of abatement funds notwithstanding, when Congress has appropriated funds for this program, EPA has administered it in an effective and timely manner. In 1984 Congress established the loan and grant program by enacting the Asbestos School Hazard Abatement Act and appropriated $50 million. EPA developed and distributed an application, created a method for evaluating and ranking asbestos hazard, established a formula for awarding funds based on the financial need criteria, and dispatched regional office staff to inspect the proposed projects to confirm that legitimate hazards were present.

We received 1,100 applications and awarded funds to 340 schools and 417 projects on June 6, 1985, the statutory deadline for awarding funds in the first year.

For the 1986 award cycle, we substantially revised and shortened the application form, adjusted the financial need criteria to award more funds to more needy schools, and in 1986 loan and grant funds totaling $50 million were appropriated by Congress and signed by the President on November 22nd, 1985, for this round of funds, we received 370 applications and loans or grants were awarded to 295 schools or 421 projects on July 31st of last year.

Congress has appropriated $50 million for additional loans and grants in 1987. The Conference Report of the HUD-Independent Agencies Appropriations Subcommittee directed EPA to either accelerate the grant solicitation process or fund high priority applications already on hand so as to fund awards by April 1st, 1987.

The President's budget submitted to Congress on January 5 of this year contained a rescission request for $47.5 of the $50 million. EPA staff has begun its preparations to distribute loans and grants in the event that Congress does not vote to rescind these funds. As part of our routine program for inspecting asbestos hazards which do not receive funds, EPA's regional office personnel have been conducting technical assistance inspections for the remaining high priority projects which were not funded in the 1986 award cycle.

Should Congress not vote to rescind the ASHAA funds, EPA could then award funds for the remaining 1986 projects by April 1st of this year. These 1986 applications will probably utilize somewhere around $30 to $35 million of the possible $47.5 million available. The $8 to $12 million of remaining funds could be awarded to new applicants in a subsequent phase of the award process which would be completed in June of this year.

In conclusion, I believe the agency has made significant accomplishments indicated by the fact that we have funded projects that would reduce student and employee exposure to asbestos fibers by more than 8 million student and employee hours per week.

I'll be glad to answer any questions.

[The prepared statement of Mr. Moore follows:]

STATEMENT OF
JOHN A. MOORE
OFFICE OF PESTICIDES AND TOXIC SUBSTANCES
U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
SUBCOMMITTEE ON TRANSPORTATION, TOURISM, AND HAZARDOUS MATERIALS
COMMITTEE ON ENERGY AND COMMERCE
U.S. HOUSE OF REPRESENTATIVES

FEBRUARY 19, 1987

Mr. Chairman and Members of the Subcommittee, I am pleased to have this opportunity to provide testimony concerning EPA's program to distribute loans and grants to schools under the Asbestos School Hazard Abatement Act (ASHAA) of 1984. The goals of EPA and this Subcommittee regarding asbestos in schools are identical: to minimize the inhalation of asbestos which is in place in school buildings. Our program is designed so that regulatory efforts, state assistance grants and technical assistance activities complement each other and are coordinated to reduce asbestos exposure.

There is consensus about the need to properly abate serious asbestos hazards in our nation's schools. EPA has developed and continues a program which provides technical assistance to help schools identify and evaluate asbestos hazards and make appropriate abatement decisions. However, we continue to believe that direct federal funding of abatement projects in schools does not represent the most effective use of federal resources.

In addition, state and local education agencies can best set priorities and fund asbestos abatement actions. The federal role in school asbestos abatement actions should be to provide

guidance and technical assistance to state and local governments.

The problem is already being addressed at the state/local level. Thirty-two states have enacted more than 60 asbestos-related laws. Nearly half of the 32 states with asbestos laws have provisions addressing financing programs for abatement. Six states have their own funding programs in place. For these reasons, EPA continues to not seek funding for this program in its budget requests to Congress.

Nevertheless, when Congress has appropriated funds for this program, EPA has administered this program in an effective and timely manner. In 1984, Congress established the loan and grant program by enacting ASHAA and appropriated $50 million for loans and grants. EPA developed and distributed an application, created a method for evaluating and ranking asbestos hazards, established a formula for awarding funds based on the financial need of the school, and dispatched Regional office staff to inspect the proposed abatement projects to confirm that a legitimate hazard was present in the applying schools. EPA received 1,100 applications, and awarded funds to 340 schools for 417 abatement projects on June 6, 1985, the statutory deadline for awarding funds in the first year.

For the 1986 award cycle, EPA substantially revised and shortened its application form, and adjusted its financial need criteria to award more funds to more needy schools. The 1986 loan and grant funds totalling $50 million were appropriated by Congress and signed by the President on November 22, 1985.

EPA received 370 applications and funds were awarded to 295 schools for 421 abatement projects on July 31, 1986. EPA Regional office personnel have also begun a program of technical assistance visits to schools where projects are located, offering guidance on how exposures could be reduced without federal funding.

As you know Mr. Chairman, Congress has appropriated $50 million for additional loans and grants in 1987. When these funds were appropriated, the Conference Report of the HUD-Independent Agencies Appropriations Subcommittees directed EPA to "either accelerate the grant solicitation process or fund high priority applications already on hand so as to award grants by April 1, 1987." The President's Budget submitted to Congress on January 5, 1987 contained a rescission request for $47.5 of the $50 million. Nevertheless, EPA staff has begun its preparations to distribute loans and grants in the event that Congress does not vote to rescind these funds. As part of our routine program for inspecting asbestos hazards which did not receive funds, EPA's Regional office personnel have been conducting technical assistance inspections for the remaining high priority projects which were not funded in the 1986 award cycle. Should Congress not vote to rescind the ASHAA funds, EPA could then award funds to the remaining 1986 projects by April 1, 1987. These 1986 applications will probably receive $30-35 million of available funds. The $8-12 million of remaining funds could be awarded to new applicants in a subsequent phase of the award process which could be completed in June 1987.

In conclusion, I believe the Agency made significant accomplishments indicated by the fact that EPA has funded projects that will reduce student and employee exposure to asbestos fiber by more than 8 million student and employee hours per week.

EPA Response to Pre-Hearing Questions

1. The EPA FY 1988 budget proposal requests a rescission of $47.5 million of the $50 million appropriated for FY1987 for the Asbestos in Schools loan and grant program. EPA's justification for the request is that "previous programs have already reduced the problem." Please describe fully the basis for this statement. Please provide the Subcommittee with all documents, memoranda, reports or other written material, including summaries or notes of conversations, that support or are in derogation of, the Agency's justification for the rescission.

Answer:

Previous ASHAA appropriations distributed by EPA on June 6, 1985 and July 31, 1986 have reduced the amount of severely damaged asbestos-containing material in financially needy school districts. EPA has awarded a total of $90 million in 1985 and 1986 to over 350 school districts to perform 800 asbestos abatement projects. The demand for ASHAA funds has declined from year to year for this program. In 1985, over 1100 applications were submitted by school districts. In 1986, only 370 applications were submitted to EPA. Similar drops in demand should continue as states and localities continue to perform abatement work.

In addition, information from Regional Offices indicates that a significant number of school districts have proceeded with abatement in the absence of federal funds.

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2. There is concern among school and service employee representatives that delays in the administration of the ASHAA program will preclude remedial actions in schools this summer. Please provide the following information:

   a) How many applications has EPA sent to local education agencies for 1987 funds? If no applications have been sent, please explain why.

   Answer:

   EPA has not sent applications to LEAs for 1987 funds. This is because the Administration is proposing to rescind this funding. However, if the 1987 funds are not rescinded, we will first fund those priority projects which were reported to us in 1986 in financially needy school districts. We will make those awards by April 1, 1987. We expect that this would require about $30-35 million of the $42.5 in 1987 funds available for loans and grants. These schools should be able to complete abatement work this summer. Of course, these schools can also use local resources to address their concerns immediately.

   The balance of the money (approximately $8-12 million) would be made available to new applicants. Applications would be available to schools through ASHAA state designees (usually an official of the state health or education department) and EPA Regional Asbestos Coordinators. We would expect to award these funds by the end of June.

   b) How many applications has EPA received from local education agencies for the 1987 funds.

   Answer:

   EPA has not received any applications for the 1987 funds.

   c) How many applications did EPA receive in 1986 for ASHAA funds and what was the total amount of assistance requested in those applications.

   Answer:

   In 1986 we received 370 applications for projects with total costs of $212 million. Approximately 1,292 of these projects totalling $96 million were qualified for funds because they were in high priority categories and were located in school districts with financial need.

   d) What was the date on which FY 1986 funds were awarded under ASHAA to local education agencies and how many of the recipients of awards in 1986 undertook remedial action during the summer school recess of 1986.

   Answer:

   The 1986 funds were awarded on July 31, 1986. We offered $47 million to 173 LEAs for 417 abatement projects. By the end of the year in 1986, a total of 63 LEAs have completed their abatement work in at least 111 project sites. Of these, 40 had completed work at 80 project sites at the time funds were awarded.

3. Did EPA propose to rescind the FY 1987 appropriation in any of its budget submissions to OMB? If the answer if yes, what was OMB's response in the "passback"? If the answer is no, at what point did the rescission request become part of the EPA's budget proposal? Please provide relevant excerpts from EPA' s submissions to OMB and OMB's response to EPA. Please identify the individual involved in the decisions to request rescission of the FY 1987 funds.

   Answer:

   During discussions between EPA and OMB surrounding the OMB passback, a decision was reached by the Administration, with the approval of the EPA Administrator, to request rescission of $47.5 million of the $50 million appropriated for the ASHAA program. The decision was based on the previously-stated position that direct federal funding of asbestos abatement projects in schools is an inappropriate use of Federal resources.

4. What is EPA's estimate of the number of schools nationwide in need of asbestos abatement? What is EPA's estimate of the cost of such abatement?

   Answer:

   In 1984, EPA estimated that as many as 30,000 schools contained friable asbestos-contianing material.

   However, we do not currently know what portion of those schools have friable materials which need to be abated and it is not possible to estimate the cost of necessary abatement work. Nor do we know what the cost for the abatement will be.

   Cost estimates for abatement work in the nation's schools are being developed as part of our rulemaking required by AHERA, but have not been completed at this time.

Mr. LUKEN. Thank you, Dr. Moore. Let me refer to your testimony and try to expedite matters. You say that there is a consensus—that's in the present tense—about the need to properly abate serious asbestos hazards in our school. That's present tense, isn't it?

Mr. MOORE. Yes, sir.

Mr. LUKEN. That's not past tense.

Mr. MOORE. Not as I read it.

Mr. LUKEN. The problem hasn't been solved, has it?

Mr. MOORE. As long as buildings remain in use and were built with asbestos-containing materials, we will have to be vigilant to make sure that that material, as it deteriorates, is properly attended to.

Mr. LUKEN. Well, there's a widespread existence of such buildings throughout the Nation, isn't that right?

Mr. MOORE. Yes, sir.

Mr. LUKEN. As a matter of fact, you say in one part of your testimony that 6 States have their own funding in place. I assume that means that the other 44 do not.

Mr. MOORE. That's correct.

Mr. LUKEN. So the States have not taken over the funding mechanism.

Mr. MOORE. The States have addressed some portion of the funding need.

Mr. LUKEN. Apparently, a rather minute portion of the problem.

Now, is the health risk from asbestos especially applicable to children because of their higher breathing rate? Is that right?

Mr. MOORE. I would say that the younger the person is when they were exposed, the more of an expected lifespan would be in front of them to allow for the adverse consequences of asbestos to become manifest; so therefore, the younger you are the more likely you are to be at risk of possibly developing asbestos-related disease.

Mr. LUKEN. Going back to some of the statistics, how many of the 31,000 schools that were estimated in 1986 to contain asbestos have been cleaned up? Do you know?

Mr. MOORE. I don't have accurate figures on all schools that were cleaned up, Congressman. The only figures I have that would be exact would be the figures that related to what funds we put out.

Mr. LUKEN. I believe we submitted some prehearing questions to you and your response generally was that EPA doesn't have specific answers to the questions as to—how many of the schools have been cleaned up and how many remain to be cleaned up. So as far as the problem is concerned, you don't have a definite survey as to how much improvement there has been or how much of the problem has been resolved in any period of time.

Mr. MOORE. I don't think we or anybody else have valid statistics that would show the specific number of those schools that may have friable asbestos that's in a form that needs to be abated, let alone what number of those schools have either abated or have current plans to take some action.

Mr. LUKEN. How many of the 86 applicants were determined by EPA to be in the high priority category?

Mr. MOORE. In addition to the ones that were funded with 1986 money, we have an estimate of some 800-odd projects, totaling some $48 million that would fall into our Category 1 and Category 2,

which are the two categories that we have chosen to fund. We expect that that number will decrease as far as eligibility for award should funds be made available because when you apply the financial need criteria against those applications we anticipate that the $48 million figure, for example, will probably go down to somewhere around $30 or $35 million.

Mr. LUKEN. Dr. Moore, this program has been in effect for 2 years—funding. And in the first year, the awards were made in June, early in June.

Mr. MOORE. June 6.

Mr. LUKEN. In 1985. In the second year, the awards were made the end of July. Isn't that rather unusual? We would expect that in the first year when there were still kinks in the program on the shakedown crew, so to speak, there might be delays. But in the second year, it was actually slower. Now, I've searched the record and I don't find any explanation for that.

Mr. MOORE. Congressman, the Act as I remember was first passed in August 1984. It directed the agency to make the first year award by June 6. That was 10 months' period of time. We met that deadline.

The second appropriation wasn't made until late November; we made the awards in late July, a period of 8 months. So we did improve 2 months in our award cycle the second year compared to the first year. We couldn't start much earlier because the funds were not appropriated, were not authorized and signed by the President until late November.

Mr. LUKEN. It takes 8 months or more.

Mr. MOORE. It takes 8 months by the time you have to work through an application to the States, there's a state's coordinator that basically has to receive all applications, the applications are forwarded to the agency, the agency reviews all of those applications, makes on-site inspections——

Mr. LUKEN. Eight months you're proud of.

Mr. MOORE. Yes, sir.

Mr. LUKEN. Well, you haven't even asked for any 1987 applications, right?

Mr. MOORE. Correct, sir.

Mr. LUKEN. So little mental calculations would say that anybody who applies in 1987 isn't going to get any funds at least until 1988 because we haven't even asked for the applications yet and it takes 8 months after those applications are solicited. Right?

Mr. MOORE. Mr. Chairman, we would assume that assuming that we fund from the 1986 priority 1 and 2 categories, we have only need for about $8 to $10 million worth of funding for that, given the reduced number of applications that would have to be reviewed to lead to the funding of the remaining materials we think we can do that by the June deadline.

Mr. LUKEN. You can now do it in 6 months, or 4 months.

Mr. MOORE. We anticipate that we could do that, assuming that we don't have—I obviously have to review every application that comes in the mail. Assuming that we aren't flooded with tens of thousands of applications, but the numbers of applications are more appropriate to the amount of money that the school districts

would know would be available, we think it's possible to do this in the June timeframe.

Mr. LUKEN. Since the EPA has not sent applications for 1987 funds, and since the EPA says in their answer to our question that this is because the administration is proposing to rescind the funds, haven't you in effect repealed the law by your bureaucratic action in not sending out the applications?

Mr. MOORE. Mr. Chairman, I don't sit in this job because of my legal expertise, but to my knowledge, the administration proposing a rescission is well within the statutes that have been laid out for these actions.

Mr. LUKEN. But because of the rescission request you have not sent out the 1987 applications. We're already into 1987. So it is the bureaucracy that's operating that's going to cause a further delay in this matter. Just before, you blamed it on the Congress for slowness in appropriation. But here, the 1987 applicants, if the Congress doesn't rescind, the 1987 applications are going to be delayed. And in effect, you are repealing it by bureaucratic action.

Mr. MOORE. I would not characterize it that way, Mr. Chairman. I think it doesn't necessarily make good management sense if on the one hand you are proposing a rescission of all the funds for loans and grants and at the same time appear to take action that's absolutely contrary to what is your stated position, which has been to request a rescission of these funds.

Mr. FLORIO. Would the gentleman yield? The only observation I'd make is you kept the $2.5 million for administrative costs in implementing the program, a key aspect of which is putting out the applications, but you didn't put out the applications.

I just wonder why you haven't distributed the application, and what prompts you to believe that there's going to be fewer applications which will relieve your budgetary problems when, in fact, the new law requires action by school boards. In the past 2 years you had a great number of applications when there wasn't even a mandatory requirement. I'm not sure I understand the inter-relationship between the position you've taken and the fact of taking the administrative money, even though you say you're not going to put out the applications because of the rescission, and then working from a budget-driven perspective saying there's a lesser amount of money; therefore, you expect fewer applications; therefore, you can be doing it faster when the facts are, I think, that you can expect more applications because now the school boards are required to go and clean up, where in the past two years they were not.

Mr. MOORE. Congressman, the reason that we proposed to retain the $2.5 million is not to sustain a large bureaucracy in headquarters. It's to allow us to maintain what we think has been a very effective outreach program in the States and localities. And that source of funds would allow that posture to be maintained. Even if we didn't have Federal funds to abate the project, we still could have that presence to assist them in characterizing the project and giving appropriate insight as to what needs to be done.

My logic with respect to saying that we would anticipate a reduced number of applications is based on our experience which has been that if we inform school districts as to the amount of money that is available that they, given 2 years' experience as well, I

think can rather quickly make an estimate as to whether or not it is worth their effort to fill out and submit a form; make some balanced judgment on their part as to whether or not their chances of success are high enough to warrant that effort.

Mr. FLORIO. Thank you, Mr. Chairman.

Mr. LUKEN. I have quite a number of other questions on the distribution, but before I yield to Mr. Whittaker I'd like to get back to the question of the rescission itself, which is very basic.

We asked you in our inquiries whether EPA proposed the rescission or whether OMB did and your answer would indicate that it was a decision reached by the administration in which EPA concurred. Is that right?

Mr. MOORE. That's correct.

Mr. LUKEN. And your answer also in the face of the testimony that you've given and your answers to questions, is that you really don't know how much the problem has been abated; you have no survey. You know that there is a serious problem out there affecting the health of our school children, yet you agreed to a rescission of the funding and you know there isn't enough local funding out there at the present time.

So you've agreed simply on the grounds—the only explanation you've given is that it's inappropriate. So is this totally a philosophical defense of the decision to rescind? Is that what it's based upon? Too much government, benign Federalism, or what?

Mr. MOORE. Mr. Chairman, I think the position as to the Federal role in awarding loans and grants for the abatement of friable asbestos hasn't changed from the time that the Asbestos School Hazard Abatement Act was passed, and that is, the administration then and now still maintains that while certainly asbestos should be inspected and friable material should be dealt with and we should have a role to give assistance to make sure that it's done correctly, the funds for conducting such things properly belong in something other than the federal realm.

Mr. LUKEN. That's your position? And that was the Administration's position in opposition to the legislation, and made that position known and the Congress decided differently and the President signed the law, and now you're sabotaging the law. That is your position and that's what you're doing; you're preventing school districts from making applications in 1987, you're sending the signal out to them by a combination of the rescission and bureaucratic action that the program is about to be terminated or has been terminated. And in effect, the program is being terminated by you, by the administration, telling EPA that—put in for a rescission and then EPA not proceeding to go through—not even go through the motions of complying with the law of making the grants available.

Mr. MOORE. Mr. Chairman, I would submit that——

Mr. LUKEN. Nothing's changed. As you say, nothing's changed. There really hasn't been any improvement, although every once in a while you seem to indicate a change because of conditions, but when we ask you the specific questions you don't know that there's any significant improvement as the reason for this rescission. That isn't the reason.

The same reason you're offering now for the rescission is the same reason as the administration offered in opposition to the legislation initially; right?

Mr. MOORE. Philosophically opposed to the use of Federal funds for this purpose. Yes, sir. Particularly in the realm of Federal deficits that you know more about than I do.

Mr. LUKEN. We understand each other. The gentleman from Kansas.

Mr. WHITTAKER. Thank you, Mr. Chairman. Dr. Moore, I think you'll agree that there obviously is a strong commitment, whether philosophically you agree with it or not, in the Congress to provide that Federal funding. Did the administration expect Congress to change its position on the issue and affirm the rescission proposal?

Mr. MOORE. I think that's always a plausible outcome when one looks at it. I wouldn't personally bet a whole lot of money on that outcome.

Mr. WHITTAKER. My appreciation for your intellect has just gone up a notch.

Then if not then, Doctor, what purpose did the rescission actually serve?

Mr. MOORE. Well, I think it's—I would presume, I'm not party to the thought process behind the decision but I would presume since there were a number of things proposed in the Federal budget as submitted by the President that there was some hope on the part of people who put this forward and sent it up to Congress that indeed they would look again at certain expenditures and possibly agree with a rescission.

Mr. WHITTAKER. On page 2 of your testimony, Doctor, you state that six States currently have funding programs in place. Could you provide the list of those States to the subcommittee?

Mr. MOORE. Yes, sir, I'd be glad to.

Mr. WHITTAKER. And can you tell us approximately how much money has actually been provided to schools in these six States by the States?

Mr. MOORE. Yes, sir, I'd be glad to provide that for the record.

[The following information was submitted for the record:]

The six States with funding programs are Massachusetts, Rhode Island, Georgia, Connecticut, California, and Illinois.

The Massachusetts program received a $30 million appropriation in 1986, $25 million of which was to go to public schools and $5 million to private schools. The Rhode Island program is based on a $19 million bond issue, funds are also available for non-school buildings but school buildings receive highest priority. The Georgia program has $18 million for 1987 and 1988 and funds are for public schools in a 90% grant and 10% loan combination. California appropriated $10 million in 1984, most of which has been awarded to public schools. Illinois has passed legislation authorizing school abatement funds and the appropriation for this program is still pending.

Mr. WHITTAKER. Is it your opinion that many States are reluctant to start State funding programs because of the availability of Federal funds?

Mr. MOORE. We have no sense that that is the case, one way or the other.

Mr. WHITTAKER. So that didn't enter into the decision to propose a rescission. All right.

Are there more State funding programs in the planning process that you're aware of, and if so, when do you expect those programs

to be in operation? And if you have that information, could you provide that for the record?

Mr. MOORE. Yes, sir.

[The following information was submitted for the record:]

EPA has recently contracted with the National Conference of State Legislatures (NCSL) to study asbestos legislation and programs in States, including funding programs for abatement. This study will provide detailed information about the provisions of individual funding programs.

In addition to the six states mentioned above, EPA is aware of current or past initiatives on abatement funding in the following States: Kentucky, Maine, Mississippi, Nebraska, Ohio, Florida, Oklahoma, New York and New Jersey.

Mr. WHITTAKER. I understand that in reviewing applications, financial need is one of the major criteria considered. What areas of the country have low per capita income levels and low operating budgets for school children, and do these areas coincide with the States that have funding programs?

Mr. MOORE. We can provide that in accurate detail for the record.

Mr. WHITTAKER. I would appreciate having that information because obviously these areas have the greatest need, if the States are not participating. It also means those children will continue to be exposed.

[The following information was submitted for the record:]

EPA has per capita income information from all public Local Education Agencies (LEAs) in the nation from U.S. Census Bureau data. For each State, an average per capita income can be calculated by using data from all LEAs in the state. The 10 States with the lowest average per capita income are: South Dakota—$4,812; Arkansas—$4,809; Mississippi—$4,746; New Mexico—$5,147; Maine—$5,159; South Carolina—$5,285; North Dakota—$5,292; Georgia—$5,412; Kentucky—$5,535; Alabama—$5,595. Of these States, Georgia, Kentucky, Maine, Mississippi have attempted some form of abatement funding.

For private school operating budget per pupil data, EPA has data only for private schools which have applied for ASHAA funds. There is no national data source for private school operating budget per pupil information. EPA's data are thus not representative of the nation and many States have not had any private school applicants for the ASHAA program. Nevertheless, by using operating budget per pupil data reported by private school applicants, average budget per pupil figures can be calculated for a limited number of States. The States with the lowest operating budget figures are: Kansas—$463; North Carolina—$635; Massachusetts—$796; Illinois—$853; Kentucky—$970.

Mr. WHITTAKER. Did your office stop work on revising the application form for distributing the 1987 Hazard Abatement Act funds after the decision was made to propose a rescission?

Mr. MOORE. Congressman, I think it would be an accurate portrayal to state that when we were aware that indeed this was going to be part of the President's rescission package that the pace by which we would seek clearance for the application form probably dropped in deference to other priority areas. We did start to have discussions towards review and approval of a 1987 form in December. That form has been approved, should Congress not agree with the rescission, and we're ready to send those forms out when the rescission is resolved.

Mr. WHITTAKER. According to our records, it would indicate that the application form did not go to OMB until February 5, 1987; is that correct?

Mr. MOORE. It was not formally submitted until then. We had informal discussions with them in December; it was apparent in our

early discussions that there were no major issues. The form that was approved in 1987 to my knowledge is essentially identical to the form that we used in 1986. The 1986 form was radically changed and shortened compared to the 1985 form.

Mr. WHITTAKER. Could you tell us then why it took over 2 months to revise the application form?

Mr. MOORE. Well, we didn't revise it since we didn't basically change it, Congressman. We didn't press for clearance of the form knowing that indeed we were not likely to send it out until the rescission request had been acted upon.

Mr. WHITTAKER. On page 3 of your testimony you state that all of the appropriated FY87 money will be awarded by June of 1987. However, according to an internal EPA memoranda, schools should be notified no later than April because of the time needed to award contracts. In your opinion, will the granting of awards in June provide schools with sufficient time to enter into the contracts to have the asbestos cleaned up during the summer months?

Mr. MOORE. I think if a school was notified of its award in June it would be problematic for probably the majority of those schools to be able to then commence activity towards cleaning up during the summer.

I might also point out that there's nothing to preclude a school from moving forward with an abatement action and then seeking reimbursement. In fact, about 20 percent of our awards that we made last year were in the category of reimbursement for work already done but done subsequent to the enactment of the bill.

Mr. WHITTAKER. But last year there was not any question that the funds would be rescinded. They must believe that the granting of funds would proceed in order for them to go ahead and put it into their budget and anticipate reimbursement.

Mr. MOORE. I would submit that no school district had any indication other than their own supposition of being able to figure out how they would compete prior to the actual announcement by the agency of awards, which were all made simultaneously.

Mr. WHITTAKER. I would just like to close my questioning with a comment. I am aware that there are only a few licensed concerns that are able to handle the removal of this asbestos. On the June timeframe, even if a school was notified by that time, the availability of those trained personnel is probably limited, they also come at a very high dollar fee for their services because of the specialized equipment they need. Thus it will be a challenge for the schools that need asbestos cleaned up in the summer timeframe to find reasonably priced contractors. Obviously, 60 days more lead time would help a great deal.

Mr. LUKEN. I thank the gentleman. The gentleman from New Jersey.

Mr. FLORIO. Thank you very much. Dr. Moore, I welcome you to the committee. Let me just say that I'm not going to spend a lot of time on the obvious points that I think the committee has difficulty with because I respect your integrity too much to put you through this drill of being able to give us the appropriate line that I trust in your heart you're not totally comfortable with. The idea that somehow there is no need for this money out there is almost preposterous. The philosophic debate as to what the appropriate roles

of the respective governments are has already been resolved. The Congress has spoken and you, as an administrator, are charged with the responsibility of implementing that law.

Even a suggestion about somehow the schools can upfront the money and then get reimbursed, maybe, at some point is preposterous. The program, of course, is addressing the neediest schools. A lot of those schools don't have operating revenues to use even if they had the assurance of reimbursement. To the degree that one school, as some particularly affluent schools have done, can go out and float bond issues—that's not something you do on the spur of the moment. Generally, there are annual elections that take place. I think that's a less than thoughtful response to one of the questions that was issued as to the reality of what we're facing.

The part that's most disconcerting to me is the fact that I think you and the administration are aware of the fact that the money is going to be made available. The Congress is not going to acquiesce in the rescission. Therefore, the process is what's disconcerting because it almost connotes a means or a motivation to try to undo the law in a different way; in this case, timeframes.

I had brought to my attention an EPA memo from a Mr. Kling, Consultant, Asbestos Action Program, to Ms. Vogt that says on page 3—and this is the result of experience in the past—"award issuance by late April 1986, a month before the legislative deadline of June 6, 1986 . . ."—making reference to last year—". . . was a chief core group objective in that it would allow a school to conduct substantial abatement activity during the summer of 1986."

So you already have within your core group a realization that if you're going to get work done within a fiscal year you've got to have moneys available by April. Now in light of that, to have the decision been made in the agency not to even submit to OMB until February something that was essentially a redoing of the application from last year sends out a message that somebody has an agenda out there that says notwithstanding what the Congress does, notwithstanding the availability of the money, we're going to play with our schedule and that will mean the money will not be able to be used this year, maybe that will carry us over into next year, and we can play this same game, each year getting more of a trailer from the previous year and therefore less money ostensibly being required. One at least can make that argument.

That's troubling because it puts into question the integrity of the process, as to what the administrative agency is supposed to be doing in terms of implementing as opposed to making policy. You come right up to the edge of legitimacy in terms of the differences between legislative responsibilities and administrative responsibilities.

Dr. Moore, I want to conclude with a couple of questions on the matter that I made reference to in my opening statement; the progress that the agency is making in the writing of the regulations of the bill that was passed last year.

Can you inform us as to what the status of the regulatory negotiation process is; that is, this negotiated process, which is not unprecedented but which is relatively new? Can we expect the April 20 deadline to be met?

Mr. MOORE. Congressman, our hope is that the April 20 deadline for promulgation of the proposed rules will be met. As you point out, the negotiated rulemaking process is not a common process to the agency. Since I've been at the agency I have been involved in three negotiated rulemakings.

My experience on one was it was a spectacular success, the rule got out, everybody was basically satisfied with it. In the second instance, the negotiated rulemaking fell apart, some of the parties disagreed and in fact left the process so it failed.

My sense is on this one there is a very strong commitment on the part of the people who are participating. They have had meetings on the 5th and 6th of February, they met again on the 17th and 18th of February, this week, two days previous. Everything that I know of suggests that it's moving along extremely well.

Mr. FLORIO. Dr. Moore, can I ask in light of the uniqueness of this, particularly the timeframes, is there a dual tracking system going forward? The negotiated process hopefully will work, but if it should fall apart and you've got this mandated deadline, there should be a traditional EPA act going forward so that we can have regulations regardless of whether the new approach works or not. As you can appreciate, not only are we now concerned about the delay in the applications and the moneys going out, but even if the moneys were to go out, unless we have the standards for abatement regulations, unless we have the contractor accreditation standards out there, people are going to be concerned about what to do with the money when the money is available.

So is there a dual tracking mechanism operating?

Mr. MOORE. Congressman, I think the best way to explain it is that we are writing the rule as the negotiations are ongoing. To the degree that there are things that are agreed upon in the negotiation, they will be reflected in the rule. We have to remain cognizant of the potential, although I hope it doesn't come to pass, that indeed the thing could fail as a negotiated consensus-building rule. If that is the case, we then have to promulgate a rule without the consensus of the negotiating committee.

Our feeling has always been on negotiated rulemaking to the degree you can discuss difficult issues upfront and get some agreement on it and put that in the proposed rule, you really save time from the proposed rule to the final rule because you won't have a lot of responses coming in during the notice and comment period that you have not addressed that are difficult for most people. We're cautiously optimistic.

Mr. FLORIO. My next to the last question is the role of OMB. Is OMB a participant? And since under the current Administration they ultimately get to be the determiner of many of these things, are they a participant in the negotiations now so as to be able to short-circuit the length of what might be ultimate review and approval of this whole process?

Mr. MOORE. OMB is not a participant in the sense that other people are parties to the rulemaking. We always discuss with OMB the policy ideas that we have that we think are appropriate for negotiated rulemaking. We have done this with them in this case and indeed they concurred that negotiated rulemaking was an appro-

priate approach. We keep them briefed on the status of the negotiations.

Ultimately, when we have our rule done it still will be submitted to them for comment in accordance with Executive Order 12291.

Mr. FLORIO. Is it your sense that they are sensitive to the time constraints that we're talking about so that when you finish—assuming you finish, as required, by April 20, which is already too late in some respects for things to be done this summer, OMB will give some priority action to this?

Mr. MOORE. Yes.

Mr. FLORIO. My last point deals with a specific issue that is of some interest to me in my State. The Act, as you know, requires EPA to set a reoccupancy standard following abatement work. If EPA fails to set the standard, the fallback provision, the hammer provision, requires electron microscopes to be used to allow for a determination of reoccupancy appropriateness and prevents the use of phase contrast microscopes.

Do you know as to whether—I don't know how far along you've come—that this is going to be in the regulations, the use of electron microscopes? I ask you because in large measure, the consensus of experts that we've talked to, commercial experts as well as academic experts, is that it's beyond dispute that you will not be able to achieve and measure whether you're in compliance with regulations unless you use the electron microscope.

Mr. MOORE. We're making good progress in putting together a protocol for the use of electron microscopy and that is one of the issues that is part of the negotiated rulemaking.

Mr. FLORIO. Can you conceive of a situation in any State where electron microscopes would be explicitly prohibited from being used to determine reoccupancy, and phase contrast microscopes would be required?

Before you respond, I saw a lot of shaking heads of no, and now I see some conferring. I'll be happy to hear your answer.

Mr. MOORE. I think—Mike Stahl told me that, for example, in your own State of New Jersey that they are currently using phase contrast microscopy not because they don't think that EM is the preferred method but they have some questions about the current utility and accuracy of the protocols that are available for EM use.

Mr. FLORIO. I would just add that it goes beyond specifically authorizing the use of phase contrast microscopy which is a technology that most people say is out of date, but specifically prohibiting the use of electron microscopes which is difficult to try to understand.

Mr. MOORE. We're not aware of anybody prohibiting the use——

Mr. FLORIO. Oh, I can show you the memos.

Thank you, Mr. Chairman.

Mr. LUKEN. Getting back to the philosophical question just for a moment, wouldn't it enter into the philosophical discussion the question of the Federal Government responsibility for us arriving at the fix that we're in? When I say that I refer to the fact that when asbestos was utilized in these school buildings, whether that was 20, 30 years ago, the Federal Government did not provide, did it, the guidance and technical assistance which you are now offering for the cleanup?

Mr. MOORE. Correct.

Mr. LUKEN. You have told us that the administration's position is that the States and local school boards are going to have to come up with the money; you don't recommend it but you do feel a responsibility to provide them with the technological assistance and guidance. Now isn't it a fact that the Federal Government was remiss, derelict, in its duty in not providing that technology, that guidance, 20 or 30 years ago when this asbestos was installed? We simply didn't know any better, did we?

Mr. MOORE. I would not characterize somebody as being remiss if they didn't know any better. You're right.

Mr. LUKEN. Well, we're talking about the same administration, aren't we? It seems to be—I would think you could be remiss if you didn't know any better if you have a duty to know better.

Mr. MOORE. What I'm pointing out, Congressman, I'm not sure 30 years ago somebody did know better.

Mr. LUKEN. Yes, I'm not suggesting any malice or anything of that sort, and maybe derelict is too strong, but negligent at least, so that there might be some responsibility. The people who should have known better, the national people who set the standards—there wasn't any EPA at that time, but the federal people who would have set the standards—didn't advise the school officials that this was a terribly dangerous thing that they were doing in installing asbestos in the schools. And therefore, there might be a responsibility there on the part of the Federal Government which did not set the appropriate standards, through ignorance perhaps, but for whatever reason, they had the responsibility.

And since then, I might add, as the committee found last year or the committee points out in the report last year, the EPA Inspector General completed a detailed review of the agency's Asbestos in Schools Program in four regions last year and these audits by the Inspector General strongly criticized EPA's asbestos program by documenting a pattern of lax inspection and enforcement procedures and failures to distribute EPA guidance material. You're aware of that, aren't you?

Mr. MOORE. Aware of the report, yes, sir.

Mr. LUKEN. You have no reason to contradict the report?

Mr. MOORE. To the contrary, sir, we take those reports very seriously and the criticisms that were raised and the suggestions that were made by the Inspector General were taken to heart by the program and appropriate modifications have been made.

Mr. LUKEN. All right. But I think it has more than historical value; it enters into the philosophical—the premises for the philosophical argument. I think the Federal Government has a responsibility and it didn't advise in the first place and it didn't advise in the second place, and therefore the government has a responsibility to clean up the program which goes beyond other federal questions. That's my observation.

The other area that I'd like to get into a little bit is the Catch-22 situation that I think the local school districts are in. We have the testimony that we're going to receive in a little while from the Oak Hills School District, and I just use that as an example, that's in Hamilton County, Ohio. I presume from that testimony that Oak

Hills is one that had made an application for 1986 and was not approved. Is that right? Would you have those records with you?

Mr. MOORE. I wouldn't have.

Mr. LUKEN. Well let's assume arguendo that that's the case. There are many such situations, are there not? And so it's not one that will be—the application has been made, there are many of these where they received favorable review but for one reason or another they have not been approved and will not be approved as soon as you start approving the 1986 leftover applications. There are many such school districts, right?

Mr. MOORE. Congressman, I would say that indeed if Oak Hills was unsuccessful last year and if they——

Mr. LUKEN. 1986.

Mr. MOORE. 1986. And if they met our Category 1 or Category 2 hazard criteria and indeed met the financial need criteria, that indeed if the rescission is not agreed to by Congress in March, they would run a very good chance of being funded.

Mr. LUKEN. But they run a very good chance of not being funded. You're not going to fund all of those, are you?

Mr. MOORE. We would be, I think, in a position of being able to fund all of the Category 1 and Category 2 projects that meet our financial need criteria that remain unfunded from last year's applications.

Mr. LUKEN. How are they going to know whether they're in Category 1 and Category 2?

Mr. MOORE. They can call or write to ask us.

Mr. LUKEN. If they know what question to ask.

Mr. MOORE. Ask us, what category did you put us in. We do that——

Mr. LUKEN. I wouldn't have known until you just stated it. How would they know? This is gamesmanship. How do they know about Category 1 and Category 2? Only the bureaucrats know about that.

Mr. MOORE. No, they're aware of the categories that we use and the criteria we use to establish the categories of need, Congressman. It's public knowledge.

Mr. LUKEN. If they're not approved, if they're not in Category I and Category II, then they're in limbo, right?

Mr. MOORE. Pardon, Congressman?

Mr. LUKEN. For 1985 and 1986 if they're not in the approved categories, they're going to be in limbo. They're not going to know what to do. I mean, they might qualify in 1987 if they knew how to apply, is what I'm saying. Right?

Mr. MOORE. All school districts who were unsuccessful were informed at the time that the 1986 money was put out that they were unsuccessful.

Mr. LUKEN. But we're talking about this unusual procedure you have that you're going to be considering the leftover 1986 applicants in 1987.

Mr. MOORE. Right. Which is being in concert with the language that was given us by the Appropriations Subcommittee, sir.

Mr. LUKEN. The Appropriations Subcommittee didn't tell you to rescind. The Appropriations Subcommittee didn't tell you not to take 1987 applications. That's what I'm talking about.

Mr. MOORE. Sir, if I may, a quote from the language in the Appropriations Subcommittee, "Direct EPA to either accelerate the grant solicitation process or fund high-priority applications already on hand so as to award grants by April 1 of 1987." We will meet that deadline.

Mr. LUKEN. You've said that. I'm talking about the predicament of the school district that fall into the cracks because you have rescinded or attempted to rescind, announced a rescission, and you're not taking 1987 applications. They're not going to know what to do if they applied in 1986—they don't even know whether they're going to be in the approved category, do they?

Mr. MOORE. Congressman, if you——

Mr. LUKEN. You haven't published a list——

Mr. MOORE. At the time that we announced who from the leftover 1986 would be awarded in 1987 if the money is not rescinded, we then would notify all the other school districts that indeed they could be a part.

Mr. LUKEN. So they will be starting on the process again in April?

Mr. MOORE. Whenever we would announce. Yes, sir.

Mr. LUKEN. That's because you have made this decision not to take 1987 applications—

Mr. MOORE. That's correct.

Mr. LUKEN [continuing]. In December.

Mr. MOORE. Pending the resolution of the rescission request, we have determined not to send out applications——

Mr. LUKEN. So that's the situation that they're in.

Mr. MOORE. Yes, sir.

Mr. LUKEN. Well, your candor deprives me of any follow up questions. But I think they are in a sorry state and that's the sorry state of administration of the law. Actually, I think it's a culpable failure to administer the law. I think it amounts to, as I stated before, an undercutting of the law that could be described as sabotage.

I'll ask the gentleman from Ohio, Mr. Eckart, if he wants to join the panel. Mr. Eckart, perhaps you can ask your questions from here. We're in the second round and I'm calling on the gentleman from Kansas and then the gentleman from New Jersey, and then we'll give you an opportunity, if you so choose.

Mr. WHITTAKER. Mr. Chairman, I have no follow-up questions.

Mr. LUKEN. The gentleman from Ohio, Mr. Eckart, a member of the full committee is welcome to participate in this hearing.

Mr. ECKART. Mr. Chairman, thank you. As I'm sure the Chairman has pointed out already, Ohio ranks very near the top in terms of the requests for applications. The subcommittee chairman I think has done a good job of at least highlighting from my perspective the problems of the past. Can you enlighten us as to where we're going, Mr. Moore? What can we expect to see happen this coming calendar year?

Mr. MOORE. Congressman, very briefly, as you well know, there is a proposed rescission request made by the President in his budget submission. Should Congress not agree with that rescission, our anticipation is that we will award the 1987 funds to those Category 1 and Category 2 projects that were submitted in 1986, for

which there were inadequate funds. We estimate that that would account for some $30 to $35 million of the $47.5 million that would become available should the rescission not be affirmed.

We then, for the remaining sum of money, would then solicit new applications to make sure that indeed we receive and fund essentially high priority Category 1 and 2 projects to financially needy school districts.

Mr. ECKART. Do you estimate that you'll have sufficient funds to meet all your 1987 high priority application requests?

Mr. MOORE. I can't answer that because I don't know what I will get in 1987. We will have more than adequate funds, we anticipate, to fund the remaining 1986 requests that are in the Category 1 and Category 2.

Mr. ECKART. Did you spend all of the money that you had currently available to you?

Mr. MOORE. With the exception of the 1987 funds, which is the subject of the rescission, we have allocated all of the previous years' funds. The only minor exception to that isolated instances where we announced to a school district that they were to receive an award, then upon further reflection they have decided that they did not want the money. We then would go back and fund the next one on the list. But in essence, all funds have been expended.

Mr. ECKART. What was the total dollar amount for 1986 high priorities?

Mr. MOORE. In 1986, 243 school districts with 1,292 projects for a total cost of $96 million. We funded $47 million that were found qualified.

Mr. ECKART. What's your estimate for high priorities for 1987?

Mr. MOORE. Well, the only data I would have in hand, Congressman, would be that which was a leftover which would be 879 with $48 million worth of requests, which when we applied the financial need to those probably will reduce it down to probably $35 million.

Mr. FLORIO. Will the gentleman yield? You partially responded to the question by saying $96 million which I thought was the amount of requests that came in. How much did you expend in 1986?

Mr. MOORE. $47 million.

Mr. FLORIO. The $3 million was administrative expenses?

Mr. MOORE. Yes.

Mr. FLORIO. Thank you.

Mr. ECKART. Then how can you—are you saying that what you did in 1986 basically met all the need and that there's only this much smaller need for 1987?

Mr. MOORE. Congressman, we have not solicited 1987 applications. What we're talking about are the applications from 1986 that were not funded with the 1986 appropriations. So it's the leftover that had we had the funds, we would have found eligible to receive funds.

Mr. FLORIO. I thank the gentleman for yielding, and just a point that we've touched on before. Just your recitation of the numbers puts into question the validity of the whole assumption behind the rescission. If last year you had $96 million worth of requests from high priority, high need districts that you were only able to provide $47 million for, how can you go and justify the rescission order of

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the additional $47 million? It's clear you have on your books today applications that would equal that amount.

Your silence indicates to me that you're having difficulty overcoming the logic that dictates the rescission is unjustified. I thank the gentleman for yielding.

Mr. ECKART. I have to concur with the comments of my friend from New Jersey. If we're dealing with requests and appropriations requests and allocations is a better way to put it—I can't come up with a similar conclusion that supports a rescission. And can you tell me how you all reached that point?

I understand you—you haven't even sent out applications yet for 1987, so how can you support a rescission here?

Mr. MOORE. Congressman, anytime anyone has to face up with the reduction of a budget—EPA is no exception—the things identified for a rescission to meet Gramm-Rudman type requirements is always at best a Hobson's Choice. And proposing the ASHAA funds for rescission is at least consistent philosophically with where the administration's position has been on this bill from the time that the bill was passed some 2 years ago.

Mr. ECKART. Do you believe the problem is so sufficiently reduced that you can support a rescission in funds?

Mr. MOORE. Congressman, it was the decision of the agency as well as the administration that considering competing priorities, that indeed this need should be funded by something other than Federal dollars.

Mr. ECKART. Did you appeal this decision through the administrative budget appeal process channels?

Mr. MOORE. I was not party to the negotiations that went on, but to my knowledge, the Agency basically agreed that this was the appropriate area to identify for the rescission.

Mr. ECKART. Who was party to those decisions, then, if you weren't?

Mr. MOORE. Essentially, the Administrator and the Administrator's budget staff were involved in this.

Mr. ECKART. Where did the idea for the cutback in this particular program originate?

Mr. MOORE. I have no personal knowledge of that.

Mr. ECKART. Mr. Chairman, I can only continue to be troubled by a recommendation of rescission based on the assertion that prior years' appropriations have near enough money problem, when in reality we don't have the current numbers available to us to meet the requests for this year. I have heard nothing that justifies a restriction on a program that clearly is so overwhelmingly necessary.

I would concur in the observations of the gentleman from Ohio, Chairman Luken, and the gentleman from New Jersey that what we have here is a travesty perpetrated on thousands and thousands of young people all across this country. I don't think the administration's priorities are correct, Dr. Moore, and given the performance to date, which has seen some need for remarkable improvement in asbestos abatement, I think this is not the time to sound a retreat.

I thank the Chairman for allowing me to participate.

Mr. LUKEN. I thank the gentleman, and I thank you, Dr. Moore, for your helpful testimony, your willingness to answer as candidly

as you have, and thank you and your staff. We will move on to the next panel.

The next panel consists of Ms. Roxanne Bradshaw of the National Education Association; Mr. Monty Lobb of the Southwest Ohio, Ohio Parent Teacher Association; Mr. Scott Strauss on behalf of the Service Employees International Union; and Mr. Robert Smith, Executive Director for the Council for American Private Education.

I have a unanimous consent request. There is a statement from the Asbestos in the Schools Coalition which has been distributed to the panel, and without objection it will be received into the records of the subcommittee. [See p. 70.]

All right, we will proceed with this panel. All of your statements have been received and without objection they will be received into the records as submitted, and you may each proceed to testify. If you want to summarize your testimony or present it any way that you think most helpful.

Ms. Bradshaw.

STATEMENTS OF ROXANNE BRADSHAW, SECRETARY-TREASURER, NATIONAL EDUCATION ASSOCIATION; SCOTT M. STRAUSS, ON BEHALF OF SERVICE EMPLOYEES INTERNATIONAL UNION; MONTY LOBB, LEGISLATIVE AREA CHAIRMAN, SOUTHWEST OHIO, OHIO STATE PARENT TEACHER ASSOCIATION; AND ROBERT L. SMITH, EXECUTIVE DIRECTOR, COUNCIL FOR AMERICAN PRIVATE EDUCATION, ACCOMPANIED BY PATRICK CANAN, WASHINGTON, DC

Ms. BRADSHAW. Thank you. Good morning, Mr. Chairman, and good morning members of the committee. I am Roxanne Bradshaw, I'm the Secretary-Treasurer of the National Education Association. The NEA represents 1.8 million elementary, secondary and vocational education teachers and school employees as well as higher education faculty and staff.

We are deeply concerned about the threat posed by asbestos to the lives and health of many of our Nation's students and school employees. This is not the first time we've been here with you. Our President, Mary Hatwood Futrell, has given you testimony and so has Keith Geiger, the Vice President, upon several occasions, and we have experienced many wins under the leadership of many of the members of this committee.

But we are still facing yet another hurdle. As many as 1.5 million school employees and 15 million school children are exposed to cancer-causing asbestos every day, yet the President's 1988 proposed budget would rescind all funding, some $47.3 million for grants and loans under the Asbestos School Hazard Abatement Act, retaining only a small portion for technical assistance to local education agencies. And in addition, the President's budget recommends eliminating all of the Abatement Act funding for the year 1988.

These proposals must be rejected. At the same time, we are seriously concerned about the timing of grant applications and the distribution of funds. Regardless of the administration's continuing opposition to this program, the Abatement Act and the appropriations bill to fund it are the law of the land. Delays brought on by

the administration's recalcitrance only perpetuate the threat to health and life of America's school children.

We urge this subcommittee to support the resolution sponsored by Representatives Florio, Dingell, Lent and you, yourself, Mr. Chairman, which would direct the Environmental Protection Agency and other agencies to insure local education agencies are awarded financial assistance under the Abatement Act in time to conduct asbestos abatement work during this summer; summer of 1987.

The EPA staff responsible for the Abatement Act Program have themselves repeatedly pointed out that awards should be determined by April, we heard in the previous testimony, so that local education agencies can carry out abatement projects during the summer months to maximize safety and minimize academic disruption. It is imperative that these projects be undertaken while the students are not in the schools and while the employees are not on site.

The most recent study of asbestos in school buildings conducted by the General Accounting Office showed that three-quarters of all the school districts in this Nation have at least one building that has friable asbestos. The total costs of asbestos cleanups are estimated at between $1.5 and $3 billion. In the past 2 years, education agencies have requested—have received—the EPA has received from these agencies a total of 1,470 applications. They have requested $741 million in abatement funds for 6,872 individual schools.

However, EPA has provided only $92 million to 635 schools. The funding has met only about 12.4 percent of the requests that have been put forward.

NEA urges the subcommittee to support full funding of the Abatement Act program and take immediate steps to insure that EPA has sufficient time to carry out the application process so that local education agencies can eliminate this threat as soon as possible.

I thank you very much for your time.

[The prepared statement of Ms. Bradshaw follows:]

TESTIMONY

OF THE

NATIONAL EDUCATION ASSOCIATION

Mr. Chairman and Members of the Committee:

I am Roxanne Bradshaw, secretary-treasurer of the 1.8 million-member National Education Association. Our members are America's elementary, secondary, and vocational school teachers and school employees, postsecondary faculty and staff. I am pleased to have this opportunity to speak to you today on a matter concerning the most serious threat to the lives and health of many our nation's students and school employees.

NEA has testified many times before Congress on the threat of asbestos and the substantial need for federal assistance in eliminating this threat in school buildings throughout the nation. Even now, as many as 1.5 million school employees and 15 million school children are exposed to cancer-causing asbestos every day. We are grateful for Congress' support for assistance to local education agencies. However, we are concerned about persistent obstacles that prevent appropriate agencies from carrying out the will of Congress.

NEA is deeply concerned that the Administration would shut its eyes to the present danger now existing in the many schools which contain cancer-causing asbestos. The President's FY88 proposed budget would rescind all funding -- some $47.3 million -- for grants and loans under the Asbestos School Hazards Abatement Act (ASHAA) program, retaining only a small portion for technical assistance to local education agencies. In addition, the President's budget recommends eliminating all ASHAA funding for FY88.

The Administration's policy of support for a national catastrophic health insurance plan while ignoring a national catastrophic health threat plays politics with the lives of schoolchildren and school employees.

Considering the grave needs in America's schools and the great difficulties various communities face in finding resources for asbestos abatement projects, these proposals could not come at a worse time. In addition, compliance with the Asbestos Hazard Emergency Response Act of 1986 (AHERA), P.L. 99-519, required of virtually all schools, can add to the costs of abatement projects. These additional requirements, necessary to ensuring that asbestos inspections in the schools are conducted thoroughly and abatement projects are conducted safely, surely justify rejecting the FY87 recission and providing the full $125 million authorized for ASHAA in FY88. We urge this committee's support for these ASHAA funding levels in both FY87 and FY88.

At present, however, we are seriously concerned about the timing of grant applications and the distribution of funds, given the uncertainty the President's budget proposals create. Regardless of the Administration's continuing opposition to this program, ASHAA and the appropriations bills to fund it are the law of the land. Delays brought on by the Administration's recalcitrance only perpetuate the threat to health and life of America's children. We urge this subcommmittee to support the resolution sponsored by Reps. Florio, Dingell, Lent, and your Chairman, Mr. Luken, directing the Environmental Protection Agency and other agencies to ensure local education agencies are

awarded financial assistance under ASHAA in time to conduct asbestos abatement work during this summer (1987).

ASHAA Award History

For the past three years, Congress has shown strong bipartisan support for federal assistance to local schools to remove the threat of abestos. In June 1985, the EPA offered the first $45 million in assistance to public and private schools to finance asbestos abatement projects. In late July 1986, the EPA provided an additional $47 million in assistance.

In the past two years, EPA has received a total of 1,470 applications from local education agencies requesting $741 million in abatement funds for 6,872 individual schools. However, EPA has provided only $92 million to 635 schools. The funding has met only about 12.4 percent of requests.

The states which received the highest award amounts in FY86 were Pennsylvania, $8.1 million; Ohio, $6 million; Maryland $3.9 million; and Tennessee, $3.5 million. Awards to other selected states were New York, $2.1 million; Louisiana, $1.4 million; Michigan, $1.3 million; New Jersey, $1.2 million; Iowa, $823,000; Minnesota, $726,000; California, $439,000; Texas, $411,000; Alabama, $270,000; Kansas, $250,000; and Colorado, $132,000.

Despite Congress' clear commitment to help local schools, delays in the distribution of funds under ASHAA have caused serious problems for a number of grant recipients. In the two years of the program, abatement projects could not — in many cases — be undertaken in a timely manner because grant and loan recipients had not received notice of their awards until June or

July. EPA staff responsible for the ASHAA program have themselves repeatedly pointed out that awards should be determined by April so that local education agencies can carry out abatement projects during the summer months.

Quoting from an internal EPA evaluation of the ASHAA grant and loan program completed in March, 1986:

> Award issuance by late April 1986 (a month before the legislative deadline of June 6, 1986) was a chief Core Group objective, in that it would allow schools to conduct substanital abatement activity during summer 1986. It appears unlikely at this point that awards will be announced before July 31, 1986 — nearly two months <u>after</u> the legislative deadline.

The EPA Regional staff concurred with this assessment. The Region V coordinator, in an August 28, 1985 memorandum to headquarters, stated, ``The award date for local education agencies (LEAs) receiving FY '86 Federal funds should be no later than April 1, 1986, so that LEAs could begin abatement work in the summer of 1986.''

Despite the concerns of Congress and EPA staff persons responsible for the ASHAA program, notice of FY86 ASHAA grant and loan awards was not made until July 31, later than the previous year.

The reasons why abatement projects should be carried out during the summer months are clear. In many instances abatement projects — particularly when they involve removal — can temporarily exacerbate the hazards of asbestos exposure. Even when conducted under EPA guidelines, the removal of asbestos can temporarily release asbestos fibers into the air. Studies conclude that even low levels of asbestos present a health

hazard, and the smallest particles are the most silent and deadly hazard. To maximize safety, it is imperative that projects be undertaken while the students are not in school.

Furthermore, the threat of asbestos has been present in the schools for far too long. It is essential that abatement projects be carried out as quickly as possible. Yet taking on abatement work during the regular school year would disrupt classes for weeks or months, a disruption that could carry over into subsequent school years.

The 1987 Continuing Appropriations Resolution includes a provision that directs EPA either to accelerate the grant solicitation process or fund high priority applications already on hand in order to award all grants by April 1, 1987. A delay by the Office of Management and Budget in approving the 1987 applications at this stage would jeopardize EPA's ability to proceed with all due haste in processing applications and determining awards.

OMB has apparently tried to sabatoge ASHAA in the past. A November 5, 1985, EPA report on ASHAA stated ''OMB is hesitant to approve a second application solicitation...If, however, OMB does allow a FY86 solicitation, it will probably be the last.''

Needs Remain Great

The need for federal assistance to undertake asbestos abatement continues to far outweigh available funds. The most recent study of asbestos in school buildings — conducted by the General Accounting Office — showed that three-quarters of all school districts in the nation have at least one building with

friable asbestos. Total costs of asbestos clean-up are estimated at between $1.5 and $3 billion.

State and local governments have made serious efforts to provide the necessary resources to remove or contain hazardous asbestos. But state and local governments alone cannot fully meet the needs in this area. Constitutional or statutory restraints on revenue and spending have hamstrung many state and local officials responsible for public education. Slow economic growth, high unemployment, and setbacks in states whose economies are grounded in agriculture, energy, and manufacturing are among the obstacles state and local officials encounter in trying address the threat of asbestos. The National Association of State Budget Officers reports that 23 states have been forced to cut their FY87 budgets, up from 13 states in FY86.

States and localities have had to assume an ever greater responsibility for a wide range of programs and services that the federal government once supported, including educational programs. Federal aid to state and local governments as a percentage of the federal budget has fallen from around 16 percent in FY80 to around 10 percent in FY87.

Moreover, local school agencies applying for ASHAA grants and loans are those with the greatest financial need. EPA reported that 80 percent of the projects funded in the ASHAA program were in school districts where the per capita income is less than $7,500 — 65 percent of the national average, and more than one-third were in school districts where the per capita income is less than $6,000 — or about 50 percent of the national average.

Finally, there is an even greater need for federal funding assistance in the wake of the Asbestos Hazard Emergency Response Act. This measure was absolutely necessary to prevent further damage being done in an effort to address the problem of hazardous asbestos in the schools. But carrying out responsible abatement projects is generally more expensive than a haphazard approach. Local school districts that were hard-pressed to find the funds for abatement projects of any kind will have an even greater need for federal assistance to fund inspection and abatement projects that adhere to these essential regulations.

Conclusion

The Administration's proposals to totally eliminate funding of this program in FY87 and in FY88 shows a callous disregard for the lives of millions of school children and of school employees. To eliminate funding for ASHAA, or to bring about further delays in the distribution of funds under the program, would be both fiscally shortsighted and morally reprehensible. It is essential that we continue — indeed, increase — our investment in human health by fully funding the Asbestos School Hazard Abatement Act.

We urge this committee to support full funding of the ASHAA program and take immediate steps to ensure that EPA has sufficient time to carry out the application process so that local education agencies can eliminate this threat at the soonest possible time.

Thank you.

Mr. LUKEN. Thank you, Ms. Bradshaw.

STATEMENT OF SCOTT H. STRAUSS

Mr. STRAUSS. Good morning, Mr. Chairman and members of the subcommittee. I am Scott H. Strauss, an attorney, and I'm appearing today on behalf of President John J. Sweeney and the 850,000 members of the Service Employees International Union.

SEIU thanks you for this opportunity to state our opposition to the administration's decision to seek rescission of almost all of the $50 million 1987 ASHAA appropriation, to request no ASHAA funding for 1988, and to delay until June of this year the award of ASHAA funds to 1987 applicants. SEIU fully supports the proposed joint resolution calling on EPA, OMB, and any other responsible Federal agencies to insure distribution of 1987 ASHAA funds in time for schools to use this money to finance abatement work during this coming summer.

The administration should be acting to protect our Nation's school children and workers from hazardous asbestos. EPA should be requesting full ASHAA appropriations and distributing and processing ASHAA applications on an expedited basis. Instead, the Reagan administration is proclaiming that neither additional funds nor the expeditious distribution of 1987 dollars are necessary where previous efforts have reduced the problem. EPA apparently believes that an additional year's delay in conducting needed abatement work will not pose any added danger to the health of school children and employees. These contentions are based on fiction rather than fact.

SEIU, this Congress, and most importantly, the administration itself, knows the true facts. The fact is that asbestos in our Nation's schools remains as it was when EPA initiated its voluntary program in the late 1970's, a grave hazard to the health of school children and employees. The fact is that after nearly a decade of EPA's voluntary efforts over 15 million school children and millions of school workers remain in school buildings contaminated with dangerous asbestos.

The fact is that application for ASHAA dollars far exceed the limited amount of Federal money available. As EPA is well, aware, in 1986 the dollar amount of applications covering Priority I abatement projects was almost three times the amount of the entire 1986 ASHAA appropriation.

The fact is that EPA has told Congress that if the 1987 funding is not rescinded, EPA will use $30 to $35 million of the $50 million appropriation to fund 1986 Priority I applications. In other words, the majority of the 1987 money will be used to deal with 1986, not 1987 asbestos problems.

The fact is that in October 1986 the Congress passed and President Reagan signed the Asbestos Hazard Emergency Response Act. The AHERA obligates EPA to issue regulations requiring schools to inspect for the presence of asbestos to determine the necessary response actions, and to perform those actions using qualified, certified personnel. AHERA was passed because Congress determined that EPA's voluntary program had been a complete failure.

The fact is that EPA has recently invited interested organizations, including SEIU, to participate on a Federal advisory committee to develop proposed regulations to implement AHERA. SEIU and many other groups are investing substantial resources and time in order to help EPA meet its AHERA responsibilities.

SEIU is astonished to learn that at the same time as the Advisory Committee is meeting and negotiating the language of proposed EPA regulations EPA itself is announcing to this subcommittee that it does not see its role as one of promulgating regulations, and, more, that the problem has been solved.

Sadly, the fact is that this national health disaster will not go away simply by declaring that the war against asbestos is over. We must look at the world as it is rather than as EPA, OMB and the rest of the Reagan administration would like it to be.

As Congress found in passing AHERA, the time has come for a comprehensive program to address the dangers posed by asbestos-containing materials in schools. School districts urgently need funding from any and all sources to help finance the timely completion of asbestos abatement projects.

EPA should be required to make Federal funds available as expeditiously as possible, and certainly in time to undertake and complete abatement work this summer when schools will not be in session. SEIU therefore fully supports passage of the proposed joint resolution.

Thank you again for this opportunity to appear before the subcommittee. I'll be happy to address any questions you may have.

[The prepared statement of Mr. Strauss follows:]

TESTIMONY OF SCOTT H. STRAUSS ON BEHALF
OF THE SERVICE EMPLOYEES INTERNATIONAL UNION
BEFORE THE COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON TRANSPORTATION, TOURISM
AND HAZARDOUS MATERIALS
UNITED STATES HOUSE OF REPRESENTATIVES

FEBRUARY 19, 1987

Mr. Chairman and members of the House Subcommittee on Transportation, Tourism and Hazardous Materials, I am Scott H. Strauss, an attorney with the law firm of Spiegel & McDiarmid, in Washington, D.C. I am appearing today on behalf of President John J. Sweeney and the 850,000 members of the Service Employees International Union ("SEIU"). SEIU thanks you for this opportunity to state our opposition to the Administration's decisions: (1) to seek rescission of almost all of Congress' $50 million FY 1987 appropriation under the Asbestos School Hazard Abatement Act of 1984 ("ASHAA"); (2) to request no ASHAA funding for FY 1988; and (3) to delay until June of this year the award of ASHAA funds to 1987 applicants. SEIU fully supports the proposed joint resolution, which calls upon the United States Environmental Protection Agency ("EPA") and other responsible federal agencies, including the Office of Management and Budget ("OMB"), to ensure distribution of 1987 ASHAA funds in time for needy schools to use this money to finance abatement work during this coming summer.

The Administration should be acting to protect our nation's school children and workers from hazardous asbestos. EPA should be requesting full ASHAA appropriations, and distributing and processing ASHAA applications on an expedited basis.

Instead, the Reagan Administration is proclaiming that neither additional funds nor the expeditious distribution of 1987 dollars are necessary. EPA states that previous funding efforts have reduced, if not removed, the asbestos-in-schools problem. Moreover, EPA apparently believes that an additional year's delay in conducting needed abatement work will not pose any added danger to the health of school children and employees. These contentions are based on fiction rather than facts.

SEIU, this Congress and, most importantly, the Administration itself know the true facts. The fact is that asbestos in our nation's schools remains, as it was when EPA initiated its "voluntary" program in the late 1970's, a grave hazard to the health of school children and employees. The fact is that after nearly a decade of EPA's "voluntary" efforts, over 15 million school children and thousands of school workers remain in school buildings contaminated with dangerous asbestos.

The fact is that applications for ASHAA dollars far exceed the limited amount of federal money available. As EPA is well aware, in 1986 the dollar amount of requests for grants and loans to cover "Priority 1" abatement projects, that is projects to address the most hazardous situations, was almost three times the amount of the entire 1986 $50 million ASHAA appropriation.

The fact is that EPA has told Congress that if the 1987 funding is not rescinded, EPA will use $30-35 million of the $50 million appropriation to fund 1986 Priority 1 applications. Thus, the majority of the 1987 money will be used to deal with

1986 asbestos problems. 1987 ASHAA applicants will have to compete for a share of only $15 million, not $50 million.

The fact is that in October 1986 the Congress passed and President Reagan signed the Asbestos Hazard Emergency Response Act of 1986 ("AHERA"). AHERA obligates EPA to issue regulations requiring schools to inspect for the presence of asbestos-containing materials, to determine the response actions needed to eliminate asbestos-related hazards, and to perform such response actions, using qualified, certified personnel. AHERA was passed because Congress determined that EPA's voluntary program had been a complete failure.

The fact is that EPA has recently invited interested organizations, including SEIU, to participate on a Federal Advisory Committee to develop proposed regulations to implement AHERA. SEIU and many other groups are investing substantial resources and time in order to help EPA meet its AHERA responsibilities. SEIU is troubled to learn that at the same time as the advisory committee is meeting and negotiating the language of proposed EPA regulations, EPA itself is announcing that the problem has been solved.

Sadly, the fact is that this national health disaster will not go away by simply declaring that the war against asbestos is over. We must look at the world as it is, rather than as the EPA, OMB, and the rest of the Reagan Administration would like it to be. As Congress found in passing AHERA, the time has come for a comprehensive program to address the dangers posed by asbestos-containing materials in schools. School districts of limited means with significant asbestos problems urgently need funding from any and all sources to help finance the timely completion of asbestos abatement projects. EPA should be required to make federal funds available as expeditiously as possible, and certainly in time to undertake and complete abatement work this summer, when schools will not be in session. The failure to award the funds in time for the performance of summer work will likely mean that millions of school children and school employees will be at risk for at least an additional year. SEIU therefore fully supports passage of the proposed joint resolution.

Thank you again for this opportunity to appear before the Committee. I will be happy to address any questions that you may have.

Mr. LUKEN. Thank you, Mr. Strauss. Mr. Lobb. Monty Lobb who is here for the National PTA, the Ohio PTA, and also represents the Princeton School District, just incidentally.

STATEMENT OF MONTY LOBB

Mr. LOBB. Thank you, Mr. Chairman.

Mr. Chairman and distinguished members of the House Energy and Commerce Committee on Transportation, Tourism and Hazardous Materials, my name is Monty Lobb and I currently serve as a member of the Ohio PTA Board of Managers. I am also serving as Legislative Area Chairman for Southwest Ohio.

For the past 26 years I've worked for the Princeton School District as a teacher, principal and as administrator. But today I speak on behalf of the National PTA, not as a school administrator.

On behalf of the 5.8 million volunteer members of the National PTA, parents, teachers, and other interested citizens in thousands of local units around the country and in overseas schools, I appreciate this opportunity to present testimony before this subcommittee regarding the continuing problem of asbestos in our schools.

Since its inception 90 years ago, the National PTA has worked to secure laws for the protection of the health, education, and welfare of the Nation's children and youth. For over 8 years the National PTA has been active on the asbestos in schools issue working to garnish support from local, State, and Federal officials for programs to abate all school asbestos hazards.

The legislative program of the National PTA, which is approved by the Board of Directors each year and which provides the primary authority for all government-related activity by the National PTA, currently includes a legislative directive on asbestos abatement which expresses particular support for the Asbestos School Hazard Abatement Act of 1984.

As you know, Mr. Chairman, asbestos was used frequently in schools built or renovated between 1946 and 1972 because of its strength as well as its fire-proofing, insulating, acoustical, and decorative properties. However, in the early 1970's it was discovered that when asbestos-containing materials became friable, able to be crumbled by hand pressure, invisible asbestos fibers may become airborne. These tiny fibers, when inhaled, may cause asbestosis, a debilitating lung disease, mesothelioma, a rare cancer of the chest and abdominal lining, and lung cancer.

The EPA and the scientific community agree that no safe level of asbestos exposure has been demonstrated. Thus, any exposure could pose risks of disease and cancer. Since the symptoms of these diseases do not appear until 15 to 40 years after first exposure, children, with their longer remaining lifespans, are at greater risk of developing them.

A January 1984 survey, conducted under contract from EPA, found that asbestos-containing friable materials were present in nearly one-third of the U.S. schools, 31,000 schools nationwide, with approximately 15 million children enrolled at those schools. The cost of abatement for these hazards could be as high as $3 billion.

Much of the asbestos-containing friable material in schools is found in wrapped pipe insulation, and friable asbestos is also often found sprayed or trowelled onto walls and ceilings.

Since March of 1971, when EPA listed asbestos as a hazardous air pollutant under the Clean Air Act, the Federal Government has struggled with the asbestos problem. The Occupational Safety and Health Administration has set and subsequently lowered the occupational exposure standard for private employees, and EPA has since extended that standard to public employees. In addition, EPA has banned all further construction uses of asbestos.

The primary focus of Federal Government actions with regard to asbestos has been asbestos in schools. However, until less than 2 years ago the actions were virtually fruitless. The voluntary Technical Assistance Program initiated by EPA in March 1979, the minimally-complied-with Identification and Notification Rule promulgated by EPA in May of 1982, and the never-funded Asbestos School Hazard Detection and Control Act of 1980 were all ill-fated efforts to achieve nationwide school asbestos hazard abatement.

The main reason for the failure of these efforts was that they resulted in neither funds to assist schools in performing abatement work nor regulations to require that schools perform such work.

As a result of these failed attempts to address the problem, the situation was not much better, and in some cases was even worse, than it had been before. Many schools' inspections had been incomplete. Many schools that inspected for and found asbestos were uncertain as to whether it was a hazardous condition. Schools that knew asbestos was hazardous were not required to abate it, and many schools attempts to abate the hazard exacerbated the problem because of the untrained abatement contractors and improper abatement work practices.

Finally, less than 2 years ago the Federal Government began taking more meaningful actions to address the asbestos in schools problem. In early June of 1984 $45 million in loans and grants under the Asbestos School Hazard Abatement Act of 1984 was awarded to public and private local education agencies around the country. The remaining $5 million of the $50 million in fiscal year 1984 appropriation, and the entire $4 million fiscal year 1985 appropriation was expended by EPA on technical assistance to schools and on asbestos abatement contractor accreditation programs.

Then, on July 31, 1986, another $47 million in loans and grants were awarded from fiscal year 1986 ASHAA funding. Congress has also appropriated $47.5 million in fiscal year 1987 for the loans and grants to be awarded this year, as well as $2.5 million for technical assistance.

In addition, on October 22 of last year the President signed into law the Asbestos Hazard Emergency Response Act which requires EPA to issue regulations setting standards for determining those situations in which asbestos is hazardous, requiring abatement of asbestos hazards and prescribing proper procedures for asbestos inspection, abatement and disposal.

The law also requires EPA to develop a model contractor accreditation program which states should then adopt, and requires that LEA's develop and implement asbestos management plans which

must include provisions for periodic reinspection of asbestos remaining in the buildings after an abatement.

EPA in fact is now at work preparing implementation of AHERA, and the Negotiated Rulemaking Committee, of which the National PTA is a member, has begun a series of meetings to develop appropriate regulations for the law. Thus, the past 2 years of ASHAA funding and the recent AHERA law and the regulatory process have been the Federal Government's most significant actions to date in addressing asbestos hazards in schools.

Yet, progress on asbestos is now threatened. The administration insists on destroying ASHAA loan and grant programs at a time when more than ever before funds are needed to help schools in meeting the requirements of the AHERA law that was signed by the President himself less than 4 months ago.

The administration's attack on the ASHAA loan and grant program is a two-pronged assault. First, the President's fiscal year 1988 budget proposes no new funds in fiscal year 1988, as well as the rescissions of all of the fiscal year 1987 funds.

Second, the Administration has once again delayed sending out the ASHAA applications to LEA's so that fiscal year 1987 awards will probably not be in time for summer abatement projects to be undertaken, thereby forcing major projects to be postponed for an entire year. We understand that it can take several weeks, or even a couple of months between the time that an ASHAA award notice is received by a school and the time that the asbestos abatement work can actually begin.

It appears that the U.S. Congress will have to remind the Environmental Protection Agency and/or the Office of Budget and Management—whichever is responsible for these decisions—that every day that a child is exposed to asbestos fibers means a greater potential for the child to develop a debilitating and deadly disease in later years.

For this reason, Mr. Chairman and other members of the Committee, the National PTA emphatically urges you to do everything in your power to secure adequate appropriations for ASHAA in fiscal year 1988 to maintain the ASHAA funds appropriated for fiscal year 1987 as well as to prevent any further delays in the ASHAA fiscal year 1987 application process.

We understand that you are introducing a joint resolution to accomplish the goal of further delays, and we heartily support that resolution.

I comment the Chairman and members of this subcommittee for your concern about asbestos in the schools, and I thank you again for this opportunity to share the views of the National PTA on this matter.

Mr. LUKEN. Thank you, Mr. Lobb. Thank you very much for a very clear statement.

Mr. Robert Smith. Mr. Smith, we'll be glad to hear from you in any way you want to present your contribution.

STATEMENT OF ROBERT L. SMITH

Mr. SMITH. Thank you, Mr. Chairman. We share the views——

Mr. LUKEN. You represent private education.

Mr. SMITH. That's right.

Mr. LUKEN. Non-public schools? Is that basically what we're talking about?

Mr. SMITH. Yes. My organization is an association of 14 national private school associations that serve or operate approximately 15,000 private schools for about 4.2 million students, which is 70 percent of the Nation's private students.

Nearly 12 percent of the Nation's school children attend the approximately 28,000 private schools which make up 24.5 percent of all schools nationally, and employ approximately 14 percent of all teachers.

I am here today to strongly support the joint resolution sponsored by Representatives Dingle, Florio, Lent and you, Mr. Chairman.

CAPE is strongly opposed to the President's proposal to rescind the $47.5 million in fiscal year 1987 Asbestos School Hazard Abatement Act—ASHAA—funds to support loans and grants for asbestos abatement in private and public schools.

In addition, we oppose continued delays in the ASHAA applications process. As you know, the fiscal year 1987 appropriations for EPA funded the program at a level of $50 million and directed the agency to announce awards in April of 1987 so that schools could contract for abatement projects and have the work done during the summer months when the children, faculty, and employees would not be exposed to greater hazards. To date, however, not even the distribution of this year's ASHAA applications has begun.

Funding for abatement projects is now more necessary than ever before. Without adequate funding, responsible abatement projects are impossible. Although we think the Asbestos Hazard Emergency Response Act of 1986 requiring schools to identify and clean up asbestos hazards is vitally important for the setting of standards for safety and effective abatement procedures, the requirements of this law impose enormous fiscal burdens on private schools.

The costs vary depending on what method of abatement is used. EPA estimates that nationwide the clean-up of asbestos will cost nearly $1 to $2 billion dollars. Based on the findings of other surveys, including one by the Department of Education, the total clean-up costs will be $3 billion.

Most private schools are unable to raise funds for abatement projects for they must rely primarily on their own tuition income and fundraising efforts and are not supported by State and local taxes in the operation or maintenance of their facilities. Only by careful planning, programming and budgeting are the limited resources of the vast majority of private schools able to meet competing priority needs in the areas of facilities management, plant maintenance, and operations, and health, safety and sanitation. Therefore, asbestos abatement will unduly strain their tightly-drawn budgets.

Although the applications filed under the ASHAA program do not fully represent the full extent of the need, the money provided by ASHAA is absolutely crucial to help those schools with the most serious asbestos hazards and the greatest financial need.

We appreciate what EPA and Susan Vogt's Asbestos Action Office have done to streamline the application forms and to insure

compliance with the Congressional directives to insure that contractors hired for ASHAA be certified by EPA. When Congress established the ASHAA loan and grant program, loan payments went back into the general treasury. The new law, AHERA, provides that loan payments be put into a special trust fund so that the money can be recycled for more asbestos work.

Although we support the creation of that trust fund, we must point out that while it appears that Congress has made a commitment to fund the ASHAA program over the past 3 years at a level of nearly $50 million, EPA allocates approximately 75 percent of the funding in the form of interest-free loans. Thus, the Federal Government is not expending the amount that is appropriated.

Mr. Chairman, we urge Congress to allocate funds for the continuation of the Asbestos School Hazard Abatement Program and for EPA to get those funds to schools in a timely fashion. Three years of funding at half the level that is authorized have not eliminated the serious asbestos hazards which continue to plague our Nation's school children. Thousands of schools, both public and private, continue to need Federal assistance to meet their problem.

Your leadership in support of full funding of the ASHAA program will help all schools provide a safe environment for our Nation's children and school personnel.

Thank you for this opportunity to provide our views to your committee.

Mr. LUKEN. Thank you very much, Mr. Smith, for your testimony.

Mr. Strauss, it's my understanding that you're part of the regulatory negotiation team currently working on AHERA. Would you care to give me your impressions of this process today?

Mr. STRAUSS. That's correct, Mr. Chairman. I'm an alternate member representing SEIU on that committee. As I stated in my testimony, EPA has invited a wide range of interest of organizations to try to work together in preparing proposed regulations.

I would say that there is a concerted effort being made to try and reach compromise on those proposed regulations. But the troubling thing about it, Mr. Chairman, is that the agency, which is a member of the committee, is now coming forward and saying it does not regard its role as being involved in promulgating such regulations.

In addition, we are concerned that the most the committee can do is arrive at conclusions as to what kinds of regulations should be proposed, and EPA is committed to proposing them. But there is no guarantee that once those regulations are proposed OMB will not step into the process and pull the plug on the regulations that the committee has agreed to.

Mr. LUKEN. So EPA is a member?

Mr. STRAUSS. EPA is a member of the committee.

Mr. LUKEN. That's set forth in the legislation?

Mr. STRAUSS. It's not set forth in the legislation, but the way EPA has structured the regulatory negotiation, they are a full member of the committee and participate in the negotiations.

The problem, again, Mr. Chairman, is that we're concerned that whatever comes out of these negotiations may in fact be subsequently undercut. EPA has stated to the committee that they do

not hold OMB's proxy in these negotiations and that OMB involvement is separate from EPA's involvement. So that EPA may be bound to propose certain regulations but OMB isn't bound to accept them.

Indeed, what we're doing here today, Mr. Chairman, is a situation—we're addressing a situation where EPA may have certain views as to what should be done but OMB clearly has other views as to what should be done. The administration, in my view, has dictated a rescission of the funding, and you're absolutely correct, a complete sabotage of this program.

We fear that it's possible the same thing can happen in these negotiations. Many can agree on proposed regulations; EPA can agree. In fact, those regulations may even be proposed. But that does not preclude OMB from entering the process at some later point and sabotaging the whole thing again.

Mr. LUKEN. What is your view as to whether the EPA can actually make that April 20 deadline of the proposed regulation?

Mr. STRAUSS. Well, EPA——

Mr. LUKEN. Do you think it will be able to come up with the regulations and that those regulations will be a product that we can actually deal with, that will be feasible, that will be helpful?

Mr. STRAUSS. Yes, I do.

Mr. LUKEN. Do the job, do you think they can do the job?

Mr. STRAUSS. Yes, I do. I'm impressed with the spirit in which the committee is moving forward on the regulations. I think that regulatory proposals by that date are certainly a very, very strong possibility.

EPA has assured us several times that they are proceeding on a dual track to try and write these regulations regardless of the outcome of the negotiations.

Mr. LUKEN. Do you think, from your standpoint, that EPA will be able to make the awards, the grants, by April 21 for the—assuming that there is no rescission?

Mr. STRAUSS. Well, the problem with making the awards—I understand that they can award—they intend to award most of the money to applicants from last year. So, I don't see why they couldn't award the money today if they wanted to.

The problem is that they haven't sent out the applications for 1987 applicants. Now that we have this new law and I hope increased awareness by school districts about the problem and the ways to go about trying to solve it, that there will be increased in the ASHAA program. Those applications are certainly not going to be returned and processed by EPA by April 25. They haven't even been sent out. So, 1987 applicants will not receive any funds by that time. I'm fairly sure of that.

Mr. LUKEN. Well, could any member of the panel respond to the point that's been raised? It's been described as limbo. It's been described as confusion here on the part of respective applicants, those who have either applied and not been awarded and they don't know whether they're application may be acted upon favorably, those who would like to apply that are confused perhaps by the fact that a rescission has been applied for and no applications are being received. Does anybody want to comment on that? Mr. Lobb.

Mr. LOBB. Mr. Chairman, from the information that I have from Jack Hunter, who probably will testify later, in the State of Ohio we had 30 of the hundred worse situations in schools. Out of the 30, only 12 were approved. Which means that we had 18 that were not. Now the question that——

Mr. LUKEN. In 1986?

Mr. LOBB. In 1986. Now, the question is whether or not there will be a lot of other applications in 1987 that could even be—that their situation could have deteriorated because of wetness or the friable, the material growing older.

So our concern is that if they're going to go on priorities,1987 applications should also have that opportunity because we want to try to take care of the worse situations. It takes, from our understanding, at least a minimum of 12 weeks after you have put in your application for you to be able then to start your work. So, you're looking at a long period of time. Any delay is really creating some problems for us.

Mr. LUKEN. Ms. Bradshaw.

Ms. BRADSHAW. Mr. Chairman, I think the greatest frustration is a sense on the part of our organization, as well as the school districts out there, who are trying to deal with this that there may well be an establishment of the self-fulfilling prophecies so there won't need to be funding in the future.

If you keep people in limbo, if you keep the ambiguity continuing as far as the regulations, if you continue on the timed lines, if the rescission is in place as pending action, I think we are going to have even fewer people even desiring to send in applications. Thereby, setting up a pattern that in the future they can say, "But, look, we only received this few number of applications. So why should we look for the next year of continuing the funding not only at a past level but at any level at all." So, I think we're all dealing with this immense sense of frustration with what's happening.

Mr. LUKEN. That will discourage applications——

Ms. BRADSHAW. Absolutely.

Mr. LUKEN [continuing]. From people who want to——

Ms. BRADSHAW. Absolutely.

Mr. LUKEN [continuing]. Apply and who have the need.

Ms. BRADSHAW. I wonder how much of that is a part of the agenda.

Mr. SMITH. Mr. Chairman, it's been mentioned but it ought to be emphasized that a serious problem is that the delay causes the possibility that the abatement processes will take place during the school year, which is a very serious matter for the potential health damage——

Mr. LUKEN. Yes. I don't think that's been emphasized enough. It's been mentioned but—you're speaking of the immense importance of being able to do the work during the summer months when the students are not exposed—the further exposure of the construction or the actual physical work that will make the exposure—will aggravate the exposure of the students.

I thank you. The gentleman from Kansas.

Mr. WHITTAKER. Thank you, Mr. Chairman. Ms. Bradshaw, in your experience approximately how long does it take a school to enter into a contract for the asbestos abatement work once the

funds are known to be available, and do you agree with the EPA assessment referenced in your testimony that schools must receive notice by at least April in order to enter into the contracts for summer cleanup work?

Ms. BRADSHAW. I think absolutely the April date is the absolute deadline. Knowing how school districts have to operate, where you have to take these types of projects through your school board, those types of—in many cases they have to let bids in order to let the work go out. The time lines are, I think, of a longer duration than if they receive—if they were to receive the money ready, knowing that they had it in their hand in June, I don't think they would be ready to start with the contractual work for that summer session. I think it would be very difficult.

Then we know that we would be into the process of releasing asbestos into the air, and, talking again about those microscopic particles that are released during that type of operation which are highly dangerous to the children and the employees.

So, I think we are looking at time lines that are untenable at this time.

Mr. WHITTAKER. Thank you. Mr. Lobb, you stated in your testimony, on page 5, that it can take several weeks, or even a couple of months, between the time an award is received and actual work began.

Could you explain for the subcommittee what specific procedures the schools are required to use, such as competitive bidding and the contract for the clean-up services.

Mr. LOBB. OK. Representative Whittaker, my understanding is that on this period of time that by the time you take an application there is a 30-day deadline. Then after that there is a 6 week period of inspections where they may even come out into the schools, of course, to see whether or not—they make a decision that they're going to allow you the grant. I know in Ohio this is the way it works.

What they do is that they'll come out to see whether or not what you had on your application, the information, was correct.

Mr. WHITTAKER. But I'm asking you about after the grant has been awarded.

Mr. LOBB. OK. Then after the grant you have the letting of bids and the period of time there could—I would see on the letting of the bids, for competitive bidding, you could end up with being another 4 weeks delay before you could actually get into the schools to start to do the work.

Mr. WHITTAKER. Do you have enough experience nationally to know or can answer whether there is a shortage of contractors available to do this work and if they are compressed into working during the summer months?

Mr. LOBB. Again, Mr. Representative, that is my understanding. One of the problems that we have faced, and I've been told by people that are doing this, is that whenever you go to the summer months also the price is usually double. Or, if you can do something during the school year—where in many places maybe you can in a school. I know that we ourselves have been working on this problem for the last 7 years and have spent our own dollars in

our school district. But a lot of schools cannot afford to do that. Therefore, they must have these kinds of monies available.

The other problem that we've been running into with the EPA, for example, is that we had them go into 10 of our buildings over a year ago and we still have not heard from them. We're assuming everything must be all right because we haven't heard from them. They asked us at one time—we had a transformer—and getting the transformer taken out of our high school building—but it sat on our dock for three months. They were worried about the PCB's, but they weren't concerned about picking it up.

The numbers of people that they have to come out, they usually argue among themselves, as well as the engineers and the contractors, and no one will sign off. Therefore, the school is seen to be liable. That is one of the problems with many of the school districts around the country, I think, because they're afraid that they're going to be sued by people over something where they really had no negligence at all.

There needs to be some way of holding these people—a hold harmless agreement. Some of the schools, I'm sure if they had some kind of specific guidelines, they would move on in and pay for it themselves. But in many cases a lot of these schools just cannot afford to do it. That's the reason they need these kinds of dollars.

We will probably have in the State of Ohio this year probably a hundred schools that will go into the loan fund. That means that they are bankrupt. Next year probably 200. So, for those schools it is very important that these kinds of funds be available to them.

Mr. WHITTAKER. Thank you. Mr. Smith, would you care to comment on the availability and the price of these contract orders from your experience.

Mr. SMITH. I wonder if I could refer that question to Mr. Canan who is with me here today and who has administered the asbestos program within the Washington, D.C. area who I think can give you a very specific response to that. Is that all right, Mr. Chairman?

Mr. LUKEN. No objection at all. Just please get the microphone and identify yourself. That's the only thing we request.

Mr. CANAN. My name is Patrick Canan. I'm the former Deputy Superintendent of the Catholic schools in the Washington area. The question, again, Congressman, was?

Mr. WHITTAKER. Generally the availability of contractors and the differential on their price according to their schedule during the school year versus the summer.

Mr. CANAN. The availability of contractors and lists made available to my office came from the State of Maryland Toxic Substances Office. We received from them approximately 60 quotations by State certified contractors a year and a half ago—from the State of Maryland. I asked what that meant, whether it was a licensing procedure, and so on and so forth, and I was given a generally vague answer as to what it meant. But since it was on state stationery I assumed it meant certified and licensed.

In the private sector, unlike perhaps the public sector, I dealt with many of these contractors on a direct phone basis and identified at the sites as we determined the hazards following the identification and notification program and perhaps was able to speed up

the process by asking them to come directly to certain sites, even on a phone request, to provide us with an estimate and a viewing of the actual site prior to and perhaps in the absence of the need of preparing specification.

Even in those situations in the spring or the early summer I was looking at 4 to 6 weeks to get even a response from these people. I was probably dealing with four or six local contractors, again, from the State-identified list.

As to the actual prices—of course, this is going to depend on, one, the nature, the gravity of the hazard, its location, and the requirements that would be related to isolating the building following the usual OSHA requirements, and so on and so forth. Again, I am referring only to doing this during the summer period when there were no students in the school.

Let me give you a concrete example since the hazard still exists. We have a gymnasium in the District of Columbia in a private high school which has, in our opinion, been encapsulated following one of the appropriate abatement procedures. This was done when an addition to that school was made within the last 3 years. We seriously believe and have had several contractors, including EPA officials, look at that gym ceiling. We all agreed that perhaps the encapsulation done on the ceiling was inadequate. Therefore, approximately 8 months ago I asked the three contractors—four contractors to take a look at it and to give us a price and a recommendation as to what to do with that ceiling.

The bids ranged—three contractors looking at the same suspended ceiling—the recommendation was on all three of these to remove the ceiling. The bids ranged for the same job from $52,000 on the high side to $26,500 on the low side for the very same job by three or four different contractors assessing and estimating the same job. This was in the District of Columbia.

Mr. WHITTAKER. Thank you.

Mr. LUKEN. The gentleman from Alabama.

Mr. CALLAHAN. Yes, sir. Mr. Lobb, does the State of Ohio have a funding program—asbestos abatement in the schools?

Mr. LOBB. No, sir, we do not. There was a law passed, though, for licensing and certification which is enforced by the Ohio Department of Health of anyone who is removing asbestos. But we do not have any funds available. Some funds have been used from the lottery—excess lottery profits but nothing has really been earmarked.

Mr. CALLAHAN. Why do you think that the State has not responded to the problem, and such a severe problem which is severe enough to come to the Federal Congress? Why do you think the States have not responded?

Mr. LOBB. That's a good question because I work with the legislators there quite often. It seems that many of them are—we've about three different tax cuts—four tax cuts here recently—in sending money back to the taxpayers. Education and other things usually get caught in the middle between the Democrats and Republicans. We just have problems, I think, of them feeling that responsibility.

I don't know if they consider it a Federal responsibility or just local. There's a lot of things—we have a lot of mandates from them but no resources to take care of it.

I don't know if I've answered your question or not, but I can't get into the minds of legislators.

Mr. CALLAHAN. Ms. Bradshaw, do you have any idea of how many States have funding programs available for asbestos abatement?

Ms. BRADSHAW. I understand from the report that EPA gave you, that there are six States that have funding programs. I don't know if there are additional ones and I don't know how many of those States were ones that also received then additional funds from EPA, from the grants. We do not have that information.

In our testimony, we have identified those States who were the top money recipients in the grants and then identified some selected States.

Mr. CALLAHAN. Thank you, Mr. Chairman.

Mr. LUKEN. I thank the panel very much. I think it has been very helpful and the exchange has been rewarding. We will move on to the next panel.

Ms. Penny Dieck of Oak Hills; Mr. Eugene Kramer; Mr. Jack Hunter. We will start off with Mr. Kramer. You are a Business Manager for the Oak Hills School District.

Mr. KRAMER. If you don't mind, I'd like to defer to Ms. Dieck who will give you some background on the funding in Ohio.

Mr. LUKEN. Ms. Dieck will give us the report from Oak Hill, right?

Mr. KRAMER. The first part, yes, sir.

Mr. LUKEN. Oh, all right. The first part. Ms. Dieck.

STATEMENTS OF PENNY DIECK, VICE PRESIDENT, BOARD OF EDUCATION AND LEGISLATIVE LIAISON, AND EUGENE KRAMER, BUSINESS MANAGER, OAK HILLS LOCAL SCHOOL DISTRICT; AND JACK D. HUNTER, CONSULTANT, OHIO DEPARTMENT OF EDUCATION

Ms. DIECK. I'm Penny Dieck. I'm the Vice President of the Oak Hills Board of Education and also Legislative Liaison. I'm glad to see you again, Congressman. Thank you very much for having us here.

In order to understand the problems that we have in our district in asbestos you need to know how schools are funded in Ohio. There's a very complicated formula. What it amounts to is that we receive about 40 percent of our funds from the State and the remainder from local property tax.

The history of the success or lack thereof of tax levies in our district is sad. Since 1980 levies have been proposed, with only three being successful, two of these levies were in one year and were for capital improvements only and were soundly defeated by a 60 percent margin. These levies would have provided funds for such things as asbestos abatement. Our most recent levy was put on three times before passage.

You have heard reference to the state loan fund in Ohio. Ohio does not allow a school district to go bankrupt as such. You must apply for loan funds. Had our last levy not passed, we would be there now.

The lack of support in our district is primarily due to the fact that only 28 percent of the households in our community have children attending the public schools. So, conversely, you have 72 percent who have no direct involvement.

Ohio laws for school funding do not provide funds or revenue for capital improvement purposes. Therefore, the source of revenue is not available. As legislative liaison, I've recently received a copy of Governor Celeste's new budget. We are receiving no increase in State funding this year. Typically one might expect a 5 to 7 percent increase per year, and that would be on a conservative side. We will receive none.

With this account of our funding in our district, I think to tell you a little bit more about it, we have about 7,200 pupils with 700 full or part-time employees. The district has eight buildings which include one high school, two junior highs, and five elementary schools. The buildings are all flat-roof buildings and they range in age from 50 years to 17 years. Recent levy passage has enabled us to replace one roof, but with over 10 acres of aging roofs, this increases the problems with friable asbestos. Our school budgets are taxed now to the limit just to take care of these problems.

Mr. Kramer has more information on our specific situation regarding asbestos.

STATEMENT OF EUGENE KRAMER

Mr. KRAMER. As Mrs. Dieck indicated, we do have eight buildings in our district. Of the eight buildings, six buildings have been identified to have problems with asbestos.

Basically, we have asbestos-containing acoustical plaster in our auditorium, shop areas in our high school, and art rooms of one elementary school. In addition to this, all buildings have pipe and boiler coverings that have been identified to contain asbestos.

The estimated cost for abatement ranges, at the high school for removing and replacing of the ceiling, approximately $118,000; removing the high school ceiling in the shop areas is $157,000. To remove and replace the ceiling in the art room in the Springmeyer Elementary School is $25,000. In addition to this, the removal and replacement of boiler and pipe coverings in the other schools is approximately another $100,000, for a total of $399,249.

However, this is not the total cost that would be included in our needs. In addition to this, because of EPA regulations, we must provide an on-site industrial hygienist technician at $400 a day, a project manager would be assigned at $500 a day, although he would not be on the job every day—it would be approximately a one to eight ratio.

They also tell us that we would be required to have laboratory testing of the areas and approximately 10 samples would be taken a day, at $30 a sample, which is another $300 a day expenses.

As explained earlier, local and state funds are not available. Therefore, we applied under the ASHAA program. The projects are considered in order of hazard priority. Only projects with friable asbestos-containing materials are considered for financial assistance because friable materials are more likely to become airborne and thereby create a potential hazard to the persons in the area.

Although our application had received favorable review, no funds were provided. We have been informed that our application ranks high in priority and that we should reapply. As of today, as you well know, the applications are still not available to us.

Mr. LUKEN. Does that mean you are in the group that will be approved if the rescission doesn't occur? Do you know?

Mr. KRAMER. We have been—about 2 weeks ago a representative from the EPA office in Chicago visited our school and inspected again. He went through the buildings and told us verbally that we should receive favorable response. What that means——

Mr. LUKEN. Well, you've heard the testimony here today.

Mr. KRAMER. Yes.

Mr. LUKEN. You heard——

Mr. KRAMER. We do not know——

Mr. LUKEN. You heard the EPA testify, and that there are a group that they're going to spend $35 to $40 to fund 1986 applications that are in the priority group. They're gong to spend the $35 to $30 million, and if the rescission doesn't go through that those awards will be made on April 21.

Do you have any way of knowing whether you are in that group?

Mr. KRAMER. No, we do not. Just their verbal statement that we rank—we stand in good position. What that means, we don't know.

Mr. LUKEN. But that doesn't tell——

Mr. KRAMER. It doesn't tell us.

Mr. LUKEN [continuing]. Whether you're in that group or not.

Mr. KRAMER. No, sir. Not at all. Therein lies our problem.

Mr. LUKEN. So, if you are in that group and the rescission doesn't occur, you will presumably receive a grant. If you are not in that group, even though you've been told you're high in priority and you are in need, then you will be able to do—what? Do you know? As far as the Federal funding.

Mr. KRAMER. No, we do not know where we stand.

Mr. LUKEN. Planned confusion?

Mr. KRAMER. Right. Time is of essence in making provisions for abatement because, as other people have testified, the nature of the work—it should be done in the summer. After notification of a grant we still must go through the process of specifications, writing specifications, awarding bids, awarding contracts, and so on. We are limited in this area because of the number of certified contractors available.

The potential health hazards to our students and employees increase each day. We do have damaged friable asbestos in our buildings. We have attempted to encapsulate as much as possible, but we know that this is only a temporary measure. Removal is the only answer to the problem.

Another area—asbestos is a daily problem to us because our custodians, for example, are reluctant to change light bulbs in rooms where this asbestos material is present for fear of disturbing the area. Many times we have to call in—when pipecovering is damaged by a student in an area we cannot touch it because of the EPA regulations. We must call in an outside contractor. Recently we had an area of 50 feet of pipe covering removed at a cost of over $1,300 because we had to call in—we have recently sent two of our employees to school to be certified to remove this, but we have not

heard yet whether they have passed the exam and are permitted to do this.

The problem is a persisting one for us and we appreciate the opportunity of presenting this to you. I think it's quite evident that the need is there.

Thank you.

[The table with Oak Hills prepared statement follows:]

Table 1

Results of the assessment of our buildings by a consulting firm are shown below.

TABLE 1. ASSESSMENT OF FIBER RELEASE POTENTIAL IN BUILDINGS CONTAINING SPRAY-APPLIED MATERIALS

Building	Location	Condition of material			Potential for disturbance or erosion					Recommendation
		Deterioration or delamination	Physical damage	Water damage	Proximity to air plenum or direct air stream	Exposed surface	Accessibility	Degree of activity	Change in building use	
Dalbi Junior High School	Auditorium/ cafeteria	Yes; due to water damage	No	Yes; discoloration and delamination	Yes	Yes	No	Low to high	No	Analyze samples to determine if asbestos is present. If asbestos is present, repair water-damaged areas and install deflectors over HVAC diffusers. Include school in special operations, maintenance and reinspection program.
Oak Hills High School	Auditorium/ projection booth, Rms. 305, 307, 308, & 309	Yes; auditorium only, due to water damage	Yes; very minor in some shops	Yes; auditorium above stage platform	Yes	Yes	Yes	Low to high	No	Repair water-damaged areas and install deflectors over unit ventilators and HVAC diffusers. Include in special operations, maintenance, and reinspection program.
	Boy's athletic office	No	No	No	No	Yes	Yes	Moderate	No	Reanalyze samples of ceiling material to determine if asbestos is present. If asbestos is present, include as part of the special operations, maintenance, and reinspection program.
Springmeyer Junior High School	Art rooms	No	No	No	Yes	Yes	Yes	Moderate	No	Install deflectors on unit ventilators and include school in special operations, maintenance, and reinspection program.

BEST COPY AVAILABLE

Mr. LUKEN. Thank you, Mr. Kramer. That's very helpful. Mr. Jack Hunter.

STATEMENT OF JACK D. HUNTER

Mr. HUNTER. Mr. Chairman, thank you for allowing me to appear. My name is Jack Hunter and I'm a consultant with the Ohio Department of Education under Frank P. Walter, State Superintendent over construction.

My role as a consultant—I am the only consultant as such—is to provide information and technical assistance in the management, care, maintenance, etc., for elementary and secondary school buildings. As such, I work with energy conservation programs and other renovation programs. But certainly my activities have been greatly involved with asbestos with as high as 49,000 schools.

My background—to give you a little bit of where I come from, I guess—I've been in the construction business and have considerable medical and scientific training, and they seem to fit right along with asbestos. I began working with the asbestos program in the schools right from the beginning, in the 1978-1979 volunteer program.

We recognized in the State Department of Education that there was a considerable responsibility to disseminate information, to keep timely and to hold repetitive information seminars to try to keep the school districts informed. This has been an item, I think, that has been identified by USEPA, and they have mentioned it here today, that they need to increase their technical assistance type activity which they have not provided an adequate role in Ohio at this time.

Mr. LUKEN. Mr. Hunter, you're going to address the question which I believe the gentleman from Alabama raised as to what efforts the State of Ohio has made to provide funding from State funds?

Mr. HUNTER. The answer is——

Mr. LUKEN. How does the State administration—whether this one or previous ones—you are with the Department of Education, State of Ohio?

Mr. HUNTER. Yes, sir.

Mr. LUKEN. How do they view this responsibility? We're talking about a matter which you have indicated was identified at least as early as 1978 and 1979——

Mr. HUNTER. That's right.

Mr. LUKEN [continuing]. And we knew basically what the dimensions of the problem were in the State of Ohio schools in 1978 and 1979; that there was considerable amount of asbestos in the various school buildings which represented a peril to the children—to the students and to those using the schools generally.

Now, you've heard the question about the Federal and State relationship here. What can you tell us as to the point of view of the State of Ohio Department of Education on the question of the State providing funds?

Mr. HUNTER. Mr. Chairman, I can give you two roles that the State Department of Education has taken. One is obviously to provide me because that provides at least some State assistance and

guidance to the school districts. We don't have a State agency—or, we did not have for all those years a lead agency that would take that responsibility. So, the communication, of course, had to be between school districts and USEPA. It just didn't work so we at least provided me—we provide many seminars and much effort to keep information going.

We did have a task force from the State Department of Education, an ad hoc group of various citizens, experts, and so forth, to advise our State board of education of the problem, quantity, and the amounts of money needed, and the State board of education did issue a resolution supporting that and submitted that to our State legislature.

Twice in budget proposals we have submitted requests for—I cannot give you exact figures—I didn't bring that today—but it's $40 million, I think, for both years that we asked for line items for the schools in Ohio to be funded to the Department of Education for grants and loans. Particularly grants.

Through the deficit problem of financing in the State of Ohio over these number of years there just was not money, and that money—the priority was dropped for other priorities. We still do not have—at the present time have not had a State funding for elementary and secondary. There have been State appropriations for colleges and for some State agencies as line items for asbestos.

Mr. LUKEN. Do any of the three of you have any comments, any opinion as to the Federal allocating—questioning the Federal/State responsibility? Now, this is a matter which has been identified at least about 10 years ago and, as was discussed earlier in the hearing, the Federal authorities without an EPA when the installations were made, and the EPA since has been indicted by its own inspector for a laxness in inspection.

Do you feel there is any Federal responsibility because of that situation that goes over and above the Federal responsibility generally for its citizens and school students?

Mr. HUNTER. Mr. Chairman, I think that's an excellent question to raise, and the parents, teachers and administrators of the schools raise it all the time, as to why are they bad, why are they being penalized by having to divert monies that should be used for education to remove a product that seemingly some people knew was bad many years ago.

So, it is a hard thing to defend, to raise local levies and raise local monies to remove something that seems to be somebody else's problem.

Mr. LUKEN. It's not the same as teaching algebra or English.

Mr. HUNTER. No. Certainly——

Mr. LUKEN. Even your constituents who have to vote on it, they believe that the Federal Government has at least part of the responsibility and should pay at least a part of it because the Federal standards should have prevented it. They should have known enough about it at that time. Or, at least, if anybody should have known about it, it would be those setting the national standard. So, the negligence and, therefore, the responsibility may be laid at least partially at the doorstep of the Federal Government above and beyond the normal and usual requirements of elementary and secondary education.

Ms. Dieck.

Ms. DIECK. I was going to say that the only alternative, given the EPA's view that they don't want to fund it, is to say that it's not important enough to be funded. I don't think they're going to say that so they have to say to take it back to the State, which I think is a typical response. If they don't want to spend the money, I don't think you're going to have them play the big bad wolf and sit here and admit that asbestos is not a problem. It's just not high on their priority list.

But given the history of asbestos and the EPA, certainly I think we see that they are the ones who should be responsible for this.

Mr. LUKEN. Well, if we have policies that are driven by budgetary considerations alone, that's what hurts. Unfortunately, that's happened too much at our level, and apparently it happens at the State level, as Mr. Hunter has indicated and others also. But it has been happening to a deplorable extent here in the national government recently.

That basically covers your testimony?

Mr. HUNTER. Mr. Chairman, a comment along these lines would be that the projects that have been funded have been very successful. You need to look at those, I think, for a moment.

One thing that has happened nearly in every case where they needed the money and they used the money, most of the money was for a rather large portion of a problem in a building. What the school district would do then, in some way, was divert priorities and use more money, get rid of—in other words, have a clean building in the end. Took it among themselves, then, to supplement. But they might not have had that priority on their own. Having the seed money, one might say, from the Federal Government they were able then to reach a clean building status, have all asbestos gone in the building.

I think it's a very important item to look at because they probably wouldn't have done that. If you only give them partial funding, then they will probably only do part of the problem. There are buildings who have had removal projects with Federal funding that still have asbestos so they're not safe. There are many buildings that did reach a safe status, or nearly clean status.

[The prepared statement of Mr. Hunter follows:]

JACK D. HUNTER, CONSULTANT
OHIO DEPARTMENT OF EDUCATION

The U.S. Environmental Protection Agency (USEPA) and school asbestos programs

A. From the very early stages of the school asbestos program two issues became very evident.

   1) There needed to be a consistent survey and inventory of asbestos containing materials for schools.

   2) That untrained school administrators and impractical regulations were not producing effective asbestos management in schools; thus the need for greater technical assistance and trained consultants.

B. The 1980 P.L. 96-270 Asbestos School Hazard Detection and Control Act was a very important step that could have resulted in very effective school asbestos management; unfortunately regulations for this act were rescinded.

C. The 1983 USEPA school regulations for identification and notification have proven to be somewhat counterproductive and ineffective.

D. Ohio Elementary and Secondary School Building Asbestos Concern

Ohio has approximately 4,900 school buildings. Various survey data indicates up to 90 percent of these school buildings have some asbestos containing materials. About 2,800 of these schools have significant quantities of friable or potentially friable asbestos. It has been estimated this represents at least $400 million in pending abatement projects in Ohio Schools.

E. The Asbestos School Hazard Abatement Act (ASHAA) of 1984 grant and loan program

In 1985, the first year of this program, the ASHAA provided Ohio with $8.25 million for projects in 36 school buildings. This represented nearly 20 percent of the available federal funds, making Ohio the leading state in the nation. Yet, Ohio schools had requested over $109 million for projects in 746 school buildings.

The second year of funding provided $6.07 million for projects in 35 school buildings. Again, Ohio lead in the number of applications for all states with 250 school buildings applying for over $42 million.

F. The need for 1987 ASHAA grants and loans to schools

In 1986, over 1200 schools nationwide requested more than $125 million for school asbestos abatement projects, with only $47 million available.

In Ohio, only 71 of 996 applications submitted in 1985 and 1986 were funded. Many of Ohio's schools that were funded with grants and loans have benefited even more than could have been expected. Many school administrators took action to remove all asbestos materials from their buildings. Thus, what might have been a partial asbestos project, in many instances, actually become a complete asbestos abatement project.

Many local education agencies in Ohio just do not have the tax base to produce the overwhelming amounts of money needed for full abatement of asbestos in their schools.

G. Problems with the USEPA funding process of ASHAA grants and loans to schools.

1) Per capita income, from 1980 census data, was used to rank applicants for economic need. Such data does not reflect current unemployment and inflationary economic impact. It does not establish a local education agency's (LEA) ability to pay for asbestos abatement.

2) USEPA ignored the criteria in P.L. 98-377 (ASHAA), as passed by Congress, by not considering the various economic data that the Governor of each state established to rank the economic need of school applicants in their state.

3) School asbestos projects with significant hazard were not given proper consideration by USEPA. Of the 300 top hazardous projects in the nation, Ohio had 61 of them, but only 10 such projects were funded.

In summary, the need for continued and expanded funding from the Asbestos School Hazard Abatement Act of 1984 is indeed a reality in Ohio and nationwide.

Thank you.

Mr. LUKEN. The gentleman from Alabama.

Mr. CALLAHAN. If through the very able efforts of your Congressman, if you were able and he were able to convince the EPA by April 1 to provide you all of their necessary authorizations to proceed on with your program—I think you mentioned four specific problems that you had within your district, your gymnasium, et. al. Number one, if they would by April 1 give you the go-ahead, how long would it take you to correct all of the problems that have been identified in your school system?

Mr. KRAMER. I'm hesitating. Are you referring from the time we would award bids until the job would be completed?

Mr. CALLAHAN. I'm saying that the topic today has been that April seems to be the deadline as to when the EPA should give indication as to their authorization go-aheads.

Mr. KRAMER. I would think at least 3 months.

Mr. CALLAHAN. So, if the EPA would give you the go-ahead on all of your programs, you could have completed the entire project in 3 months?

Mr. KRAMER. It would depend on the availability of contractors and their schedule.

Mr. CALLAHAN. But you think within 90 days you could do that?

Mr. KRAMER. We would hope.

Mr. CALLAHAN. And you would have no problem with your local matching monies? I mean, in some cases you'd have to yourself pay up to 25 percent, in some cases 50 percent. You would have no problem if they said, well, the $400,000 project is approved? You would have no problem with your local funds?

Mr. KRAMER. I defer to the board member.

Ms. DIECK. It would be a matter of taking——

Mr. CALLAHAN. Wait a minute, do we have a bureaucracy down there?

Ms. DIECK. It would be a matter of taking the funds from Peter to pay Paul but in view of the seriousness in which we place this matter, we have money allocated during a 5-year budget plan for some reroofing work—we would take that money probably and use it. We do view it, you know, as very serious. We've never even approached close enough to have to consider this because we've been delayed and delayed and we can't even get an application. So, frankly as a board we've never discussed exactly where the money would come from. But it would be there because we do put a high priority on it.

Mr. KRAMER. I apologize for not being able to answer that. I retired 3 years ago from this job and just came back the 5th of January. So getting back into the swing——

Mr. CALLAHAN. There are some State funds available, though.

Mr. KRAMER. Right.

Mr. CALLAHAN. That would be local funds if you would transfer from another project.

Mr. KRAMER. Along that timeframe, I did want to cover before that this is the application and the backup documents that were presented for the application. So, depending, again——

Mr. LUKEN. For the record, is that a little over an inch thick? Maybe close to 2 inches thick?

Mr. KRAMER. Close to it. Yes, sir. That's the material. Now, depending on how their reapplication is involved, if I need to go back and reconfirm all this, there could be a timeframe problem.

Mr. HUNTER. Mr. Chairman, a point along those lines might be made, some information that may help. The 1985 funding cycle of this ASHAA program—the schools in Ohio and across the Nation basically had 18 days to submit application for their State to go through the process of review, go on into the Federal review process, the EPA.

Mr. LUKEN. Are you going to cover the question of Ohio making a review and a rating and what the EPA did to that?

Mr. HUNTER. Yes, Mr. Chairman.

Mr. LUKEN. All right. Would you include that in the comments you're about to make?

Mr. HUNTER. Yes. The 1986 cycle—they had basically 30 days. So the problem has been wait, wait, wait and run like crazy and try to fill out this document and have a review process which, of course, then has many problems, as you might know. If we had 6 months to fill this out, then we could do a better job. So there is that problem of giving the people a chance.

Many school districts, many school buildings, are not included in the process, and I think that was made by some of the other people testifying here today—that if given a chance, given enough run for the program, they would apply.

There are many problems in the review process. The State of Ohio and by the Act passed by Congress is supposed to provide economic data for each school district and rank that—rank those districts that apply—and submit that to the USEPA for ranking process. Unfortunately, for various reasons—apparently expediency—the USEPA chose to use per capita income only as one criteria. The States are harmed a great deal by using that one criteria of economic need. It is very difficult to explain to the school people, parents of a school district that's right next door to another school building—they have a bad problem and they weren't funded because they're $60 per capita income higher than their neighbors right next door who were funded, or a lesser problem. That's almost impossible to explain.

Every State, I am sure, in this Nation has a system of allocating money, either Federal and/or local or State money, under some economic need priority system. Ohio certainly does. We have some good economic data that we use, annual, it's current data. We were and are still disturbed by using 1980 census data which is not readily available to schools and so often they don't know what figure the USEPA will use in the application process. And they don't know whether they're going to be on the border, going to be too high, or too low—whatever.

I think that some of the testimony that one of the other gentlemen gave about Ohio schools, that of the 100 highest priority hazards in this Nation only a very small number, 30-some, were funded. Of those, Ohio had a great number of that 100, and we had 7 of that 100 hazards funded. We had 61 applications in that area. Though hazard seems not to be the lead criteria at all in awarding monies for the program—it's per capita income. Very basic.

The interesting point to that is that Warren City, Ohio had some of the first top 10 applications in the Nation as far as hazard but Warren, of course, has been hit very heavily by the steel industry unemployment where the county unemployment rates in Warren, Ohio are the highest in the State of Ohio and certainly lead many areas in the Nation. So their ability to pay is almost zero. Yet, those projects were not funded because they were only a few hundred dollars above this arbitrary limit that USEPA established.

So, it does make it very, very difficult for schools to understand where they stand and why their very high priority projects are not funded.

Does that respond to your concern, Mr. Chairman?

Mr. LUKEN. I'm afraid it does. It's the question that we perhaps should have probed a little deeper with Mr. Moore when he was here, but we didn't have those details. We'll keep the record open for 30 days for possible submission of a letter to Mr. Moore based upon your testimony and asking him for an explanation of those priorities that have been established and why they haven't really followed hazard as he indicated.

Though I think to be completely fair about it, the EPA does use need as a basis also. I got the impression that they were using the first criterion as hazard.

Mr. HUNTER. They do have a ranking process. We feel that's probably very fair in establishing priority and hazard. The ranking is done before the——

Mr. LUKEN. You don't have any problem with that part?

Mr. HUNTER. Not necessarily. No. I think we certainly understand the bureaucracy and the need for various categories. So, we certainly concur with that. This ranking at State level, because the EPA does provide in the funding process—ASHAA process—provide Federal people or staff to process these applications and enter them into eight entry systems which does then produce a ranking before they leave the state.

Unfortunately, the Act calls for four or five other criteria to be used and to evaluate those applications for economic need. We did in Ohio and we have various criteria we submitted in a state plan to USEPA for ranking those applications. We certainly would have ranked some of our applications in a much higher economic need than just per capita income. What we submitted as high economic need and high hazard, of course, were not funded in many cases.

Mr. LUKEN. We're asking the EPA to utilize the wisdom which would go well beyond that of Solomon to determine what need is as far as the school district is concerned in the State of Ohio. I notice from all the smiles at least a recognition of the problem is not in total agreement.

Does the gentleman from Alabama have anything else?

Mr. CALLAHAN. No, sir.

Mr. LUKEN. Well, this will conclude the hearing. We thank all the witnesses. It has been very helpful. As far as this Member is concerned, the evidence that we received, the comments, the information we have, would lead me to urge that we proceed with the legislation which would have an effect, at least some moral persuasion on the EPA, if not legal. But proceed with all deliberate speed in approving the 1986 and in soliciting the 1987 applications and at

least distributing those funds which have been appropriated. I think the need has been demonstrated by this hearing.

So, we thank everybody for coming such a distance, and the Subcommittee is adjourned subject to the call of the Chair.

[Whereupon, at 12:25 p.m., the hearing was adjourned.]

[The following materials were submitted for the record:]

ASBESTOS IN THE SCHOOLS COALITION

FOR INFORMATION Geri Palast, Service Employees Int'l Union, (202) 898-3360
1313 L Street, N.W.. Washington, DC 20005

Joel Packer, National Education Association, (202) 822-7329
1201 16th Street, N.W., Washington, DC 20036

January 30, 1987

James C. Miller, Director
Office of Management & Budget
Old Executive Office Building
17th Street and Pennsylvania Ave., N.W.
Washington, D.C. 20503

Dear Director Miller:

The Asbestos in Schools Coalition, representing parents, children, teachers and other school employees, school boards and school administrators and other concerned organizations, strongly opposes the President's proposal to rescind $47.5 million in FY87 Asbestos School Hazard Abatement Act(ASHAA) funds scheduled for loans and grants for asbestos abatement in the schools. In particular, we oppose any delay in the ASHAA application process.

The Congress on a bipartisan basis for the last three years has demonstrated its strong support of a Federal role in assisting local schools in removing the health threats which asbestos presents to school children and employees. The FY87 appropriation for EPA contained the third round of funding for ASHAA at the level of $50 million, with a directive that EPA announce awards in April 1987.

Since we believe there is virtually no chance that Congress will accept this rescission, we urge you to proceed with the distribution of ASHAA applications and determination of awards as currently scheduled. Even if the rescission were adopted, the Administration would still have sufficient time to stop funding before award determinations are made. Therefore, not starting the application process will simply result in an unwarranted delay in schools receiving notice of their awards, which in turn will make it difficult for abatement work to occur during the summer. Therefore, abatement work will be put off another year because it cannot occur while the building is occupied during the school year.

It is clear that ASHAA funds are more necessary than ever. In the first two rounds of ASHAA awards, local school districts requested over $750 million in assistance, yet only $92 million was available. The recently enacted Asbestos Hazard Emergency Response Act, P.L. 99-519, signed in law by President Reagan will impose additional requirements on schools for inspection and clean-up of asbestos hazards. To request no new money and ask for a rescission

of FY87 funds represents a callous disregard for the safety and health of our nation's school children.

We once again urge you to proceed with the distribution and processing of ASHAA applications to allow for announcement of awards by April.

Sincerely,

AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS
AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES
AMERICAN FEDERATION OF TEACHERS
AMERICAN PUBLIC HEALTH ASSOCIATION
CHILDREN'S DEFENSE FUND
CITIZEN ACTION
COUNCIL FOR AMERICAN PRIVATE EDUCATION
COUNCIL OF OCCUPATIONAL SAFETY, HEALTH AND SOCIAL SECURITY, AFL-CIO
INDUSTRIAL UNION DEPARTMENT, AFL-CIO
LABORER'S INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO
NATIONAL ASSOCIATION OF STATE BOARDS OF EDUCATION
NATIONAL EDUCATION ASSOCIATION
NATIONAL PTA
NATIONAL SCHOOL BOARDS ASSOCIATION
NEW YORK CITY BOARD OF EDUCATION
NEW YORK STATE DEPARTMENT OF EDUCATION
OMB WATCH
SERVICE EMPLOYEES INTERNATIONAL UNION
U.S. CONFERENCE OF LOCAL HEALTH OFFICERS
U.S. PUBLIC INTEREST RESEARCH GROUP

cc: Representative James J. Florio
Representative John D. Dingell
Representative Norman F. Lent
Representative Edward P. Boland
Representative Bill Green
Senator Quentin N. Burdick
Senator Robert T. Stafford
Senator Max Baucus
Senator Frank R. Lautenberg
Senator William Proxmire
Senator Jake Garn

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
PESTICIDES AND TOXIC SUBSTANCES

MEMORANDUM

SUBJECT: ASHAA Loan and Grant Program Evaluation Summary

FROM: David J. Kling, Consultant
Asbestos Action Program

TO: Susan F. Vogt, Director
Asbestos Action Program

On July 15, 1985, I presented, as a consultant to the Asbestos Action Program (AAP/OPTS), an evaluation plan for the Asbestos School Hazard Abatement Act (ASHAA) Loan and Grant Program. The evaluation was designed and instituted not only to provide a critical analysis of 1985 program policies and activities, but also to develop a basic ASHAA program plan for 1986. Over the summer and autumn, comments on 1985 program administration and counsel on 1986 improvements were solicited and received from EPA offices at Headquarters and the Regions, State ASHAA Designees, national education and government associations, and local education agency (LEA) officials.

The centerpiece of the evaluation plan was the ASHAA Evaluation Core Group, six EPA program managers and analysts most of whom had major roles in 1985 program administration. (See attached list.) After distilling external comments and counsel, the Core Group was charged with analyzing 1985 program policies and performance and with recommending useful 1986 modifications. This group, over the past seven months, largely accomplished its task through advice to Michael M. Stahl, Chief, School Assistance Staff, and more formally, in the production of 16 Position Papers on key program issues.

This memorandum summarizes the major findings of the ASHAA Loan and Grant Program evaluation. It highlights sources of program success, discusses major program modifications for 1986, outlines avenues of continued evalution and recommends future program directions. It also transmits the 16 Position Papers and related appendices on key program issues and elements. The papers, which generally represent the consensual Core Group view, present a critical analysis of the 1985 program and recommend a basic program plan for 1986 administration.

Delays in FY 1986 appropriations and application form approval, due in part to uncertainty on how Gramm-Rudman-Hollings legislation would be implemented, have affected some schedules in the papers. Other late ASHAA policy or program modifications have altered some original assumptions under which the evaluation was initiated. Nevertheless, I believe the basic policies, principles and procedures outlined in the papers have and will continue to serve as useful building blocks and essential reference documents for an improved 1986 program.

SOURCES OF 1985 SUCCESS

The 1985 ASHAA Loan and Grant Program was capably organized and administered, with awards determined and issued on schedule despite an intimidating legislative deadline. This was due to several factors:

- Direct access to the Assistant Administrator for Pesticides and Toxic Substances, which granted the Asbestos Action Program (AAP/OPTS) the "administrative muscle" necessary to meet deadlines and get results.
- "Top priority" project status conferred by the Administrator.
- Close coordination and expert, timely support from other key EPA offices, such as Administration (OA), General Counsel, Inspector General, Public Affairs, Exposure Evaluation Division/OTS and, in particular, Information Resources Management/OA and Economics and Technology Division/OTS.
- Cooperation from leading national education groups and from state and local government associations.
- Counsel of the State ASHAA Designees, who had first-hand knowledge of state applicants.
- Comprehensive application processing support by EPA to the states, which eased state participation and encouraged local education agency (LEA) application.
- Willingness and ability of Regional offices to assume key inspection and award monitoring responsibilities, initially with minimal direction.
- Capable, dedicated AAP/OPTS management and staff, which overcame a variety of implementation obstacles through creativity, flexibility and perseverance.

Most ingredients of 1985 program success appear present again in 1986, although ASHAA's "top priority" status at the Administrator's level and the challenge of launching a new program, which helped sustain high staff morale, may be somewhat diminished. The current three-month delay due to late appropriations and form review may have dampened earlier Core Group enthusiasm for an accelerated 1986 effort. Award issuance by late April 1986 (a month before the legislative deadline of June 6, 1986) was a chief Core Group objective, in that it would allow schools to conduct substantial abatement activity during summer 1986. It appears unlikely at this time that awards will be announced before July 31, 1986 - nearly two months after the legislative deadline.

KEY MODIFICATIONS FOR FY 1986

The ASHAA Loan and Grant Program evaluation proposed a variety of modifications for 1986 program enhancement. Those listed below have already been incorporated in the new program plan.

* Assistance Application Form revision. The 1986 ASHAA Assistance Application Form, substantially modified by the Core Group after a series of internal and external reviews, is considerably shorter, simpler to complete and much more relevant to key award criteria.

* Tighter eligibility criteria. New screening criteria will eliminate applicants with missing critical data or who inaccurately report information. Other projects will be disqualified if abatement costs are very small or if exposure levels are negligible. In addition, financial eligibility has been tightened to focus funds on LEAs with the greatest need.

* More reliable data for assessment. The revised form, coupled with a new LEA data verification exercise, on-site confirmation of project hazard information through inspection, State and region comments and better EPA tracking and processing procedures, will markedly improve data base quality for award decisions.

* Clearer "project area" definition. EPA's concept of "project area" - contiguous rooms or spaces containing a single type of asbestos-containing material - has been more carefully crafted, defined and illustrated for LEAs in the revised application and other program documents.

* Reaffirmation of project-level consideration. The Core Group favored project-level assessment and award over a school-level approach because it better targeted funds on the most critical hazard areas and it spread awards among more applicants. Further, it may extend the financial impact of assistance through a "seed effect," which suggests that partial or project Federal funding stimulates local incentives to finance any remaining unfunded asbestos abatement projects in the school, thereby multiplying the actual effect of assistance.

* Centralized data entry. Last year, the Agency dispatched a contractor analyst with a microprocessor to assist the states in application processing and ranking. In 1986, an administrative support person will visit the states to aggregate applications and prepare them for delivery to EPA, where data entry and processing will take place. EPA will then provide states with preliminary rankings for comments and recommendations. Centralized data entry will save the Agency time, money and increase data accuracy.

* Expanded outreach. EPA's mailing list of public school districts and private schools has been enlarged from 33,000 to nearly 45,000.

* Hazard ranking refinement. Six hazard ranking categories have been cut to four to reduce subjectivity, further simplify classification and increase exposure hour abatement. Only the most serious hazards will be funded.

* Extended technical review. For FY 1986, an expanded, two-stage technical review process, extending over several months, should reduce confusion, late hours and last minute heroics required for prompt award determination in 1985. Technical review tasks are being automated to the extent possible and practical.

* An enhanced Regional role. Regional officials, primarily Regional Asbestos Coordinators (RACs) and technical assistants/inspectors hired under a grant with the American Association of Retired Persons (AARP), are assuming more responsibility in the 1986 program, particularly in liaison with states and schools. They will continue to conduct pre-award inspections, evaluate on-going and completed award projects, and counsel LEAs with unfunded priority #1 projects on their abatement options.

* Improved inspection training and targeting. Comprehensive building inspection training for AARP personnel, conducted in December 1985, will improve the quality and efficiency of 1986 school inspections. The Agency has revised its mechanism for assigning these pre-award verification inspections to better identify priority projects.

* Closer working relations with major education and government associations. AAP/OPTS has worked closely with major national education groups, such as the National PTA and the Council on American Private Education, and with leading state and local government associations, such as the National Governors' Association, to improve program operation and widen public information. Periodic briefings are being held for these groups at critical points in the award cycle.

* Improved integration with related Agency programs. ASHAA activities are being consolidated and coordinated with other EPA asbestos programs for better use of resources, particularly in the Regions. Most integration has occurred with the Office of Compliance Monitoring, which must enforce the Asbestos in Schools Identification and Notification Rule (ASINR). AARP personnel, for example, are now trained to conduct both compliance (ASINR) and building (ASHAA) inspections.

* LEA data verification. In 1986, LEAs will be asked to confirm the key application data they report to EPA on their applications. This is to assure that EPA has properly recorded originally reported information.

* Enhanced State comment. A revised state review and certification procedure will allow state designees more time and better information to assess applications, provide comments and influence project rankings within their states.

* Contractor certification and training requirement. In accordance with the FY 1986 ASHAA appropriation legislation, new award conditions will require that contractors or in-house staff conducting ASHAA-funded abatement work be either certified by the state or have successfully completed an EPA-approved training course. EPA is providing grants to help States establish contractor licensing or training programs. In addition, EPA has provided funds for five asbestos information centers and will provide funds for four or five satellite training centers across the nation. Finally, the Agency has begun efforts to review and approve new and existing training programs offered by public and private groups.

CONTINUED EVALUATION ACTIVITIES

Several evaluation efforts are still underway to assess the impact of the ASHAA Loan and Grant Program and related ASHAA activities.

Impact Evaluation. The Agency has engaged a noted education finance consultant to examine two major aspects of the Loan and Grant Program: (1) the so-called "seed effect" of partial funding, and (2) the progress of ASHAA-funded abatement compared to abatement of projects not funded by ASHAA. The first study will try to determine if partial Federal funding does provide a stimulus for local fund matching and expanded abatement activity. The second study will compare the speed and effectiveness of ASHAA abatement projects to local or state financed abatement activities.

Abatement Cost Model. EPA, under a contract with Versar Associates, is developing a model to estimate abatement costs based upon various damage, location and abatement method characteristics. It will be used by EPA in the 1986 Loan and Grant Program to assess the reasonableness of cost estimates and may later be used to help LEAs and states assess the reasonableness of project costs provided by contractors.

Technical Assistance for Unfunded Priority Projects. The Agency is providing technical assistance, particularly abatement counseling, to those LEAs with qualified but unfunded ASHAA asbestos projects. These projects represent known but unabated hazards. EPA has set hazard reduction goals and is tracking progress on these projects as part of its Strategic Planning and Management System.

Training Course Effectiveness. EPA is developing basic criteria which may be used, as noted above, to review and approve new and existing training courses offered by public and private groups. The Agency continually evaluates the quality and effectiveness of training courses at the asbestos information and training centers and will monitor courses at the new satellite centers.

Technical Assistance Performance Improvement Project. In a related effort, EPA has begun a performance improvement project (PIP) to assess the Agency's success in promoting effective asbestos abatement in ASHAA-funded schools. Specifically, the technical assistance PIP will try to determine if trained asbestos abatement contractors conducted their ASHAA work significantly more safely and effectively than untrained contractors.

RECOMMENDATIONS

A few recommendations, arising from the evaluation or other recent developments, are listed below for consideration as you chart future program directions.

Affirmation of Priority Status of ASHAA Loan and Grant Program by the Administrator. In light of the appropriation and application delays, it might be advisable to affirm the priority of awarding 1986 ASHAA funds expeditiously. This could be done through an Administrator memorandum, similar to the one signed on January 23, 1985, to EPA executive personnel restating the "top priority" status of ASHAA. A new memorandum would assure continued Agency support and sustain AAP/OPTS staff morale through the current cycle.

Technical Assistance Program Enhancement. As it appears uncertain that ASHAA Loan and Grant Program funds will be available in subsequent years, EPA may be wise to enhance its current technical assistance effort, particularly activities which promote training program review, State program development, and local consultation to schools and other building owners. Such programs, administered largely in the Regions, help States and localities help themselves toward program self-sufficiency.

Increased Asbestos Research. In addition to technical assistance, extra Agency emphasis might be placed on asbestos research. While there is general agreement on basic issues (i.e., friability and damage increase fiber release into the air), questions do remain on more precise concerns, such as the interplay of key hazard factors and the effects of other characteristics, such as indirect exposure.

Coordination of EPA Asbestos Programs. EPA sponsors a variety of asbestos programs within OPTS and the Offices of Drinking Water, Air Quality Planning and Standards, and Research and Development. Closer coordination, perhaps even some integration and consolidation, of ASHAA and other Agency asbestos activities appears beneficial. While some program integration does seem to occur in the Regions, closer coordination of ASHAA, ASINR compliance, NESHAPS and various asbestos research initiatives may be possible at headquarters.

Sufficient Regional Resources. No program or organizational modification should be considered without assessing its implications for Regional management. The Regions have many administrative and monitoring responsibilities for ASHAA and other asbestos programs, and headquarters must insure that the Regions possess sufficient information and resources for program success. This is particularly true if the technical assistance program is enhanced.

AAP/OPTS Reorganization. Finally, AAP/OPTS organization and management within the immediate office of the Assistant Administrator for Pesticides and Toxic Substances offered several important advantages for ASHAA program development and implementation. In subsequent years, however, as ASHAA becomes more routine or loses loan and grant funding altogether, a more conventional organizational placement of AAP/OPTS or ASHAA activities might be advisable. In other words, ASHAA activities may no longer require the Assistant Administrator's constant attention as they become regular and much less volatile. A shift of ASHAA responsibilities or a consolidation of all asbestos programs in OTS might be studied. In any event, it may now be time to consider reorganization options for AAP/OPTS.

Attachments

cc Lawrence Culleen
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Steven E. Young